167-479.

167-512

# TRANSCRIPT OF RECORD.

## SUPREME COURT OF THE UNITED STATES.

### OCTOBER TERM, 1893.

No. 141.

---

THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY, APPELLANT,

*vs.*

THE FLORIDA FRUIT EXCHANGE.

---

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

---

FILED JULY 20, 1894.

(15,642.)

(15,642.)

# SUPREME COURT OF THE UNITED STATES.

## OCTOBER TERM, 1896.

## No. 141.

---

THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY, APPELLANT,

*vs.*

THE FLORIDA FRUIT EXCHANGE.

---

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

---

INDEX.


| | Original. | Print. |
|---|---|---|
| Caption | *a* | 1 |
| Transcript from circuit court of the United States for the northern district of Florida | 1 | 1 |
| Petition | 1 | 1 |
| Exhibit "A"—Report and opinion of Interstate Commerce Commission in case of The Railroad Commission of Florida *vs.* The Savannah, Florida and Western Railway Co. *et al.* | 17 | 5 |
| Order of the commission | 59 | 30 |
| Statement of shipments by the Florida Fruit Exchange, October, 1891, to March, 1892 | 64 | 33 |
| Statements of shipments by the Florida Fruit Exchange, season of 1890 and 1891, to New York, Boston, Philadelphia, and Baltimore | 65 | 34 |
| Certified copy of schedule showing rates for transportation of bananas and cocoanuts, &c. | 66 | 34 |
| Order for defendants to appear and answer | 73 | 38 |
| Order to appear and answer, with marshal's return thereon | 76 | 39 |
| Order extending time to answer | 79 | 41 |


JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., JULY 18, 1896.

| | Original. | Print. |
|---|---|---|
| Order of Interstate Commerce Commission on application for rehearing | 80 | 41 |
| Answer of the Savannah, Florida and Western R'y Co | 83 | 42 |
| Notice of hearing | 97 | 46 |
| Order referring cause to special master | 98 | 47 |
| Stipulation as to evidence | 99 | 47 |
| Certificate of secretary of Interstate Commerce Commission as to report and opinion and order denying rehearing | 101 | 48 |
| Evidence before the master | 102 | 49 |
| Testimony of H. E. Hutchens | 103 | 49 |
| A. A. Aveilhe | 115 | 57 |
| Wilbur McCoy | 131 | 67 |
| A. A. Aveilhe (recalled) | 137 | 70 |
| T. F. Huggins | 138 | 71 |
| D. Greenleaf | 144 | 74 |
| J. C. Bruyn | 145 | 75 |
| A. M. Ives | 150 | 79 |
| Lyman Phelphs | 153 | 81 |
| F. B. Papy | 163 | 87 |
| N. S. Pennington | 170 | 91 |
| James A. Harris | 184 | 99 |
| George R. Fairbanks | 195 | 104 |
| J. A. Leslie | 197 | 105 |
| D. E. Maxwell | 198 | 106 |
| Affidavit of C. D. Owens | 203 | 109 |
| Memorandum of testimony taken before Interstate Commerce Commission | 205 | 109 |
| Testimony of W. H. Joyce | 207 | 110 |
| Wilbur McCoy | 216 | 115 |
| C. D. Owens | 222 | 119 |
| J. H. Stevens | 243 | 131 |
| H. Townsend | 245 | 133 |
| G. N. Sorrel | 250 | 136 |
| H. Walters | 264 | 144 |
| Testimony of George R. Fairbanks | 275 | 150 |
| A. M. Ives | 282 | 154 |
| Exhibit D—Memorandum by the Interstate Commerce Commission on application for rehearing in case of The Railroad Commission of Florida *vs.* The Savannah, Florida and Western R'y Co. *et al.* | 287 | 157 |
| Order denying rehearing | 309 | 168 |
| Testimony of A. C. Knapp | 313 | 169 |
| James Colhoun | 323 | 175 |
| A. M. Ives | 336 | 183 |
| George R. Fairbanks | 352 | 192 |
| M. S. Moreman | 356 | 194 |
| L. J. P. Bishop | 358 | 195 |
| Charles Delano | 361 | 197 |
| Charles W. White | 375 | 206 |
| John D. Sinclair | 389 | 214 |
| D. E. Maxwell | 394 | 217 |
| J. D. Sinclair (recalled) | 396 | 218 |

| | Original. | Print. |
|---|---|---|
| Testimony of A. M. Ives (recalled) | 400 | 220 |
| A. W. Cockrell | 402 | 221 |
| H. Bisbee | 406 | 223 |
| Commission and interrogatories | 411 | 226 |
| Exceptions to interrogatories | 421 | 231 |
| Deposition of G. M. Sorrell | 425 | 233 |
| Henry S. Haines | 430 | 236 |
| James Street | 435 | 238 |
| Exhibit A—Statement of claims paid during seasons of 1889–1890–1891 for loss of oranges | 437 | 239 |
| Deposition of E. Ruhlman | 443 | 244 |
| A. F. Young | 445 | 245 |
| Eugene M. Travis | 448 | 246 |
| Exhibit B—Schedule of sailing days of Ocean Steamship Co. | 451 | 248 |
| Master's report | 455 | 252 |
| Statement of master's fees and expenses | 482 | 267 |
| Exceptions to master's report by S., F. & W. R'y Co | 483 | 267 |
| Exceptions to master's report by Ocean Steamship Co | 488 | 269 |
| Decree | 490 | 270 |
| Certified copy of decree | 493 | 271 |
| Receipt of C. M. Cooper for fee | 496 | 272 |
| Receipt of master for fee and expenses | 496 | 273 |
| Petition for and allowance of appeal of S., F. & W. R'y Co | 498 | 273 |
| Petition for and allowance of appeal of Ocean S. S. Co | 500 | 274 |
| Order denying supersedeas and exceptions thereto by S., F. & W. R'y Co | 502 | 274 |
| Assignment of errors by S., F. & W. R'y Co. | 504 | 275 |
| Assignment of errors by Ocean S. S. Co | 506 | 276 |
| Order denying supersedeas and exception thereto by Ocean S. S. Co | 508 | 277 |
| Receipt of clerk for costs | 510 | 277 |
| Order enlarging time to file record on appeal | 511 | 278 |
| Order enlarging time to file record on appeal | 513 | 278 |
| Bond on appeal | 515 | 279 |
| Citation | 518 | 280 |
| Marshal's return | 519 | 281 |
| Clerk's certificate | 520 | 281 |
| Motion to dismiss appeal | 521 | 282 |
| Order beginning hearing | 522 | 282 |
| Withdrawal of 4th assignment of error | 522 | 282 |
| Agreement as to mileage distances | 523 | 283 |
| Order concluding hearing and submitting cause | 524 | 283 |
| Statement of distances by consent | 525 | 284 |
| Decree | 526 | 284 |
| Petition for appeal | 526 | 285 |
| Assignment of errors | 527 | 285 |
| Appeal bond | 530 | 286 |
| Order granting appeal | 531 | 287 |
| Clerk's certificate | 533 | 288 |
| Citation | 534 | 288 |
| Acceptance of service of citation | 535 | 289 |

a UNITED STATES OF AMERICA,
*Fifth Judicial District.*

Pleas and proceedings had and done at a regular term of the United States circuit court of appeals for the fifth circuit, begun and held, pursuant to law, on the third Monday of November, A. D. 1893, in the court-room of said court, in the city of New Orleans, State of Louisiana, before the Honorable Don A. Pardee, United States circuit judge for the fifth judicial circuit, and the Honorable A. P. McCormick, United States circuit judge for the fifth judicial circuit.

SAVANNAH, FLORIDA AND WESTERN RAILWAY CO., Appellants,
*v.*
THE FLORIDA FRUIT EXCHANGE, Appellee.

Be it remembered that heretofore, to wit, on the 3rd day of July, A. D. 1893, a transcript of the record of the above-style- cause from the United States circuit court for the northern district of Florida was filed in the office of the clerk of the United States circuit court of appeals for the fifth circuit, in the words and figures following, to wit:

1 In the Circuit Court of the United States, Fifth Circuit, Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY and THE OCEAN STEAMSHIP COMPANY OF SAVANNAH.

*Petition.*

To the honorable the judges of the circuit court of the United States for the northern district of Florida, fifth circuit, sitting in equity:

1st. Your petitioner, The Florida Fruit Exchange, respectfully shows unto your honors that petitioner is a corporation duly incorporated under the laws of the State of Florida, by the name aforesaid, and has its principal place of business and office in the city of Jacksonville in said district; that the defendant, The Savannah, Florida and Western Railway Company is a corporation by that name under the laws of the State of Florida and under the laws of the State of Georgia and operates a railroad from Jacksonville, Callahan, Gainesville, Live Oak, Lake City and other places in the State of Florida, and in said district, to Savannah in the State of Georgia, and has business offices and agents at the places above named and at divers other places in said district, that the defendant, The
2 Ocean Steamship Company of Savannah is a corporation by that name and, as petitioner is informed and believes and so alleges, is incorporated under the laws of the State of Georgia, and

said defendant steamship company has a business office and agent in the city of Jacksonville in said district for procuring freights for said steamship company.

2d. That the defendants are common carriers and constitute a line, and as such line under a common control, management or arrangement for continuous carriage or shipment by or over said line, are engaged in the transportation of passengers and property partly by railroad and partly by water from Jacksonville, Callahan, Gainesville, Lake City and Live Oak, each a point in Florida, and from divers other places in the State of Florida, via said named points or places to the city of New York in the State of New York, and to Philadelphia, Pennsylvania and Boston, Massachusetts, and by connecting lines to other Eastern cities, and as such common carriers are subject to the act to regulate commerce and all statutes of the United States applicable in the premises, and were so on and before the 30th day of December, A. D. 1890, and at all times since. That said Jacksonville, Callahan, Gainesville, Lake City and Live Oak, for the purpose of determining rates on shipments of oranges and lemons from points within the State of Florida to points without the limits of said State, are base points, and are hereinafter referred to as such.

3d. That during the season of 1885–1886, and for each season since, the defendants have established and maintained rates for the transportation of oranges and lemons from said base points in Florida to said points of destination, with but few changes until the season of 1889–'90, during which season said rates were to
3 New York and Philadelphia by said line thirty cents per standard box and to Boston thirty-five cents, and proportionately to other Eastern cities aforesaid. And each of said defendants received, by agreement between them, a certain agreed proportion of said through rates, the particulars of which will more fully appear in the report, opinion, findings and orders of the Interstate Commerce Commission in the cause of The Railroad Commission of Florida *vs.* The Savannah, Florida and Western Railway Company *et al.*, a certified copy of which marked Exhibit "A" is hereto attached, and it is prayed may be taken and referred to as a part of this petition.

4th. That afterwards, to wit: in November, A. D. 1890, said defendants did agree together to advance and did, to wit: on the 23d day of November, A. D. 1890, actually advance said previously prevailing rates ten cents per standard box, and that they have been and are now on all shipments from said base points to said points of destination charging, demanding, collecting, and receiving said advanced rates.

5th. That afterwards, to wit: on the 30th day of December, A. D. 1890, the railroad commission of Florida filed a complaint with the Interstate Commerce Commission of the United States against the defendants herein, and others, alleging said advanced rates to be unlawful and in violation of the act to regulate commerce, and unjust, unreasonable and excessive and materially injurious to a large class of shippers who have at great expense built up a valuable and

productive industry in reliance upon the continuation or probable decrease of the said previous rates voluntarily established and long maintained by said carriers themselves, to wit: the growth and production of oranges, lemons and other citrus fruits; all of
4 which averments are hereinbefore recited this petitioner avers to be true.

That said defendants answered said complainant; that evidence was taken thereon before said Interstate Commission and arguments submitted thereto on behalf of said complainants and defendants; that said Interstate Commission after having considered of the same rendered its decision and made its orders in the premises, afterwards, to wit: on the 29th day of October, A. D. 1891, the particulars of all which proceedings will more particularly appear by reference to said Exhibit "A," hereto attached, and which it is prayed may be taken and referred to as a part of this petition as though recited at length herein.

That by said report, findings, decision and orders of said Interstate Commission it was ascertained, found, ordered and adjudged by said Interstate Commerce Commission that the said advance made in said rates the 23d day of November, A. D. 1890, should not have exceeded five cents per box, and, so far as it was in excess of that amount, was unreasonable and contrary to law, and that the defendants and each of them be and are notified and required to forthwith cease and desist from charging or collecting for the transportation of oranges and lemons any greater sum than an addition of five cents per box to the rates in force prior to the advance on November 23d, 1890, of all of which said defendants had due notice; all of which more fully appears in said Exhibit "A," which it is prayed may be referred to therefor.

6th. That said defendants have wholly failed and refused and do wholly fail and refuse to wit: in said northern district of Florida, to observe, obey or conform to said order of said Interstate Commerce Commission, and do continue to charge and collect
5 said excessive rates established by said advance of November 23d, 1890, and do thereby violate and disobey said order, to wit: in said northern district of Florida.

7th. That petitioner is engaged in the business of shipping and selling oranges and lemons, and is a large shipper of oranges, and also ships lemons from Jacksonville and Gainesville aforesaid by and over said line of defendants to said cities of New York, Philadelphia and Boston on which the freights charged by defendants have to be paid, and petitioner is very frequently so shipping large numbers of boxes of oranges, in due course of its business and is interested in said order of said Interstate Commerce Commission and in the observance and performance thereof by said defendants. That since said order was made by said commission, and since said defendants had notice of the same, petitioner has tendered to defendants to be carried over their said line from a base point aforesaid in Florida, to wit: the city of Jacksonville to points of destination aforesaid, to wit: the cities of New York, Philadelphia and Boston boxes of oranges of the usual or standard kind customarily

used in the Florida trade and shipped over defendants' said line, and has offered to pay to defendants for the transportation thereof the rates fixed and ordered to be observed as aforesaid by said order of said Interstate Commerce Commission, to wit: thirty-five cents per box to New York and Philadelphia, and 40 cents per box to Boston, and has demanded of them the said rates and the observance and performance of said order, and has made tender of payment to defendants in advance of said lawful rates fixed by said order, but said defendants have refused to carry said oranges for said rates fixed by said order, but have exacted, charged and collected, and continues to exact, charge and collect of petitioner
6 and its agents the said rates established by defendants by said advance of November 23d, A. D. 1890, which last-mentioned rates petitioner alleges are unjust, unreasonable, excessive, contrary to law, and contrary to and in disobedience of the said report, opinion, findings, requirements and orders of said Interstate Commerce Commission.

8th. Wherefore petitioner prays that said defendants and each of them be restrained by the order, decree, injunction or other proper process, mandatory or otherwise of this honorable court from further violating, disobeying, or in any way refusing to observe, obey, conform to and perform said order of said Interstate Commerce Commission in the premises, and from refusing, failing or neglecting to receive, transport and deliver properly and promptly oranges and lemons, or either, of or from petitioner from said base points in Florida, and any one of them, by and over defendants' said line, railroads and steamships and any of them to said points of destination, and any of them, at and for rates of charges therefor not in excess of those designated as the maximum allowed by said order, to wit: an advance of five cents per standard Florida box on the rates in effect next preceding November 23d, 1890; that said defendants and each of them may be ordered and decreed to pay to petitioner its reasonable costs and counsel fees herein; that petitioner have such further and other relief in the premises, and such further and other orders and decrees be made by this honorable court in the premises to enforce obedience to said orders of said Interstate Commerce Commission, as the case may require and to the court may seem meet.

And that defendants and each of them may answer this petition and every part thereof fully and completely, that this matter
7–16 may be speedily heard and determined, that the court designate a day therefor and a short notice to defendants, and that the same may be served on each of said defendants or its or their officers, agent or servant as the court may direct.

And petitioner will ever pray, etc.

C. M. COOPER,
*Counsel and Solicitor for Petitioner.*

STATE OF FLORIDA,
*County of Duval, Northern District of Florida.*

Personally appeared before me Albert M. Ives, general manager of the Florida fruit exchange, who, being duly sworn, says that he is the general manager of the Florida fruit exchange; that he has heard the foregoing petition read, and knows the contents thereof, and the same is true, except as to those matters therein stated to be set forth on information and belief, and therein he believes it to be true.

ALBERT M. IVES.

Sworn to and subscribed before me this 14th day of December, A. D. 1891.

PHILIP WALTER, *U. S. Clerk.*

(Endorsed:) In circuit court of United States, fifth circuit, in and for northern district of Florida. In chancery. The Florida Fruit Exchange *vs.* Savannah, Florida & Western Railway Co. *et al.* Filed this 14th day of December, A. D. 1891. Philip Walter, clerk. Petition of Florida Fruit Exchange. C. M. Cooper, counsel and solicitor for petitioner Florida Fruit Exchange.

17 & 18 EXHIBIT "A" TO PETITION OF THE FLORIDA FRUIT EXCHANGE *vs.* THE SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY AND THE OCEAN STEAMSHIP COMPANY OF SAVANNAH.

*Rates on Oranges and Lemons from Florida Points to Northeastern Markets; Reparation for Injuries Caused by Unreasonable Advance in Rates.*

Before the Interstate Commerce Commission.

THE RAILROAD COMMISSION OF FLORIDA
*vs.*
THE SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY *et al.*

Complaint filed Dec. 30, 1890; answers filed Jan. 20 to March 24, 1891; heard at Jacksonville, Fla., March 30 and 31, 1891; briefs filed April 16 to July 28, 1891; decided Oct. 29, 1891.

C. M. Cooper, for complainant.

R. G. Erwin and John E. Hartridge for Savannah, Florida & Western R'y Co. and Charleston and Savannah R'y Co.

W. G. Elliott for North-eastern R. R. Co. of S. C., Wilmington, Columbia & Augusta R. R. Co., Wilmington & Weldon R. R. Co., Petersburg R. R. Co., and Richmond & Petersburg R. R. Co.

James A. Logan for Washington Southern R'y Co. (successor to the Alexandria & Fredericksburg Railway Co. and the Alexandria & Washington R'y Co.), Baltimore & Potomac R. R. Co., Philadel-

phia, Wilmington & Baltimore R. R. Co., Pennsylvania R. R. Co., and Richmond, Fredericksburg & Potomac R. R. Co.

J. C. Cooper for Florida Central & Peninsular R. R. Co.

Lawton & Cunningham for Ocean Steamship Company.

*Report and Opinion of the Commission.*

19 Before the Interstate Commerce Commission.

THE RAILROAD COMMISSION OF FLORIDA

*vs.*

THE SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY, THE Charleston & Savannah Railway Company, The North Eastern Railroad Company of South Carolina, The Wilmington, Columbia & Augusta Railroad Company, The Wilmington & Weldon Railroad Company, The Seaboard & Roanoke Railroad Company, The Petersburg Railroad Company, The Richmond & Petersburg Railroad Company, The Richmond, Fredericksburg & Potomac Railroad Company, The Alexandria & Fredericksburg Railway Company, The Alexandria & Washington Railway Company, The Baltimore & Potomac Railroad Company, The Philadelphia, Wilmington & Baltimore Railroad Company, The Pennsylvania Railroad Company, The Florida Central & Peninsular Railroad Company, The Baltimore Steam Packet Company, The New York & Texas Steamship Company, The Clyde Steamship Company, The Ocean Steamship Company of Savannah.

Complaint filed Dec. 30, 1890; answers filed Jan. 20 to March 24, 1891; heard at Jacksonville, Fla., March 30 and 31, 1891; briefs filed April 16 to July 28, 1891; decided Oct. 29, 1891.

20 I. The act to regulate commerce makes it the duty of this commission "to investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or Territory at the request of such commissioner or commission." The complaint in this case was brought by and in the name of the railroad commission of Florida, but the real parties in interest are large classes of growers, buyers and shippers in the State of Florida. Since the complaint was filed the nominal complainant has ceased to exist. Held, that the repeal of the law creating the railroad commission of Florida could not operate as a withdrawal or dismissal of the complaint, that commission having been only an instrument for the transmission of the complaint to this commission, and having fully performed that function before an end was put to its existence. To abate or dismiss the proceeding on that ground would be to sacrifice substance to form in contravention of the spirit and letter of the act to regulate commerce and of the rules of courts of law in analogous cases. Held further, that under the provision of the act to regulate commerce authorizing this commission to "institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made," neither complaint nor complainant is necessary to confer jurisdiction.

II. The defendants, The Clyde Steamship Company, The New York & Texas Steamship Company, and The Florida Central & Peninsular Railroad Company, are common carriers engaged in interstate commerce by arrangement as alleged in the complaint, and as such are subject to the jurisdiction of this commission in respect thereto.

21 III. It does not appear that defendants wilfully omitted or failed to notify the commission and the public of the advance in rates complained of, or that any one has sustained damage or injury by reason of such failure or omission, and therefore there is no case made out for an application by the commission to a district attorney of the United States for the institution of a prosecution, and no ground for a recommendation of reparation for such injury.

IV. While a complainant has no interest in the division the defendants make between themselves, and it does not determine what the charge to the public must be, yet the division is not without significance in determining what are reasonable rates for the whole distance on the lines in question.

V. Carriers making an advance in rates should be able to present a satisfactory justification of such advance, particularly when the old rates have been of many years' standing and the advance is great and the traffic affected is of large and constantly increasing volume and of vital importance to a large section of country.

VI. Upon consideration of all the facts and circumstances in this case,—held, that the advance of 10 cents per box in rates on oranges from Florida points to New York and other northeastern markets, made by defendants on November 23, 1890, was without justification, and so far as it exceeded 5 cents per box was unreasonable and contrary to law; that defendants be notified and required to make reparation for injuries occasioned by such unreasonable and unlawful rates to the several persons entitled thereto,

22 and, as such persons are not parties to this proceeding and the amounts wrongfully received from them, respectively, cannot be ascertained from the evidence already taken, that this proceeding be continued for such further action or inquiry in that behalf as may become necessary.

C. M. Cooper for complainant.

R. G. Erwin and John E. Hartridge for Savannah, Florida & Western R'y Co. and Charleston & Savannah R'y Co.

W. G. Elliott for North-eastern R. R. Co. of S. C., Wilmington, Columbia & Augusta R. R. Co., Wilmington & Weldon R. R. Co., Petersburg R. R. Co., and Richmond & Petersburg R. R. Co.

James A. Logan for Washington Southern R'y Co. (successor to the Alexandria & Fredericksburg Railway Co. and the Alexandria & Washington R'y Co.), Baltimore & Potomac R. R. Co., Philadelphia, Wilmington & Baltimore R. R. Co., Pennsylvania R. R. Co., and Richmond, Fredericksburg & Potomac R. R. Co.

J. C. Cooper for Florida Central & Peninsular R. R. Co.

Lawton & Cunningham for Ocean Steamship Co.

23 *Report and Opinion of the Commission.*

By the COMMISSION:

The complaint in this case is filed by "the railroad commission of Florida," under an act of the legislature of that State, approved June 7, 1887, which makes it the duty of that commission, in case of any violation of the interstate-commerce act affecting interests of the people of Florida, "to petition the Interstate Commerce Commission of the United States for the regulation and control of the offending railway company or companies, or other person or persons doing business as common carriers, by the application of the provisions of the interstate-commerce law of the United States and amendments thereto, and to take all necessary and expedient measures to secure to the people of Florida the full benefit of the interstate-commerce law in the regulation and control of interstate commerce."

After setting forth the capacity in which the complainants invoke the action of this commission, the allegations of the complaint are in substance:

1. That the defendants are common carriers, constituting several lines, and as such are engaged, under a common control, management or arrangement, for continuous carriage or shipment, in the transportation of passengers and property, "wholly by railroad, and partly by railroad and partly by water, between various points in the State of Florida, south of and via Jacksonville, Fernandina, Callahan, Gainesville, Lake City, and Live Oak," in said State, and Baltimore, Philadelphia and New York, "and, by connecting lines, other Eastern cities."

24 2. That said cities, Jacksonville, Fernandina, Callahan, Gainesville, Lake City, and Live Oak, are, "for the purpose of determining rates on shipments of oranges and lemons from points within the State of Florida to points without the limits of said State, base points," and that from said base points the defendants by arrangements and agreements among themselves have established the following lines:

1st. The Clyde Steamship Company, known as the Clyde line, from Jacksonville.

2d. The New York & Texas Steamship Company, known as the Mallory line, from Fernandina.

3d. A line composed of the Savannah, Florida & Western Railway and the Ocean Steamship Company of Savannah, from either Jacksonville, Callahan, Gainsville, Lake City or Live Oak.

4th. A line from either of said last-named base points composed of the following carriers and known as the Atlantic Coast line, to wit: The Savannah, Florida & Western railway, the Charleston & Savannah railway, the North Eastern Railroad of South Carolina, the Wilmington, Columbia & Augusta railroad, the Wilmington & Weldon railroad, the Seaboard & Roanoke railroad, and the Baltimore Steam Packet Company.

5th. A line from either of said base points composed of the fol-

lowing carriers and known as the Atlantic Coast Despatch line, to wit: The Savannah, Florida & Western railway, the Charleston & Savannah railway, the North-eastern Railroad of South Carolina, the Wilmington, Columbia & Augusta railroad, the Wilmington & Weldon railroad, the Petersburg railroad, the Richmond & Petersburg railroad, the Richmond, Fredericksburg & Potomac railroad, the Alexandria & Fredericksburg railway, the Alexandria & Washington railway, the Baltimore & Potomac railroad, the Phil-
25 adelphia, Wilmington & Baltimore railroad, and the Pennsylvania railroad.

3. That "during and since the season of 1885–'86, the through rates for the transportation of oranges and lemons from points in Florida south of and via said base points were, and are still made up of the rates charged by the gathering railroads in Florida to said base points and the rates therefrom to the points of destination," and that during the said season of 1885–'86, and for each season since, said several lines, by arrangements and agreements among themselves, established and maintained rates for the transportation of oranges and lemons by said several lines from said base points in Florida to points of destination with but few changes until and including the season of 1889–'90, during which season said rates were to New York by said several lines as follows:

By the Clyde line, 30 cents per standard box of 80 pounds.

By the Mallory line, 30 cents per standard box.

By the Savannah, Florida & Western railway and the Ocean Steamship Company, 30 cents per standard box.

By the Atlantic Coast line, 37½ cents per standard box.

By the Atlantic Coast Despatch line, 43 cents per standard box.

(The rates on said commodities by said lines to Philadelphia, Baltimore and other Eastern cities were, it is alleged, in proportion to those to New York.)

4. "That with the exception of the Clyde and Mallory lines, each of which received the whole of the 30-cents rate as its share of each through shipment, each of said lines divided said rates so agreed upon for it, as its share of said through rate, in certain
26 agreed proportions between the carriers composing said lines respectively."

5. That "said rates so voluntarily made and maintained by said lines afforded ample compensation for the service rendered," but at the beginning of the season of 1890–'91, to wit, in November, 1890, the defendants "constituting said several lines combined and agreed *agreed* to advance, and did actually advance said rates 10 cents per standard box, and have been and are now, on all shipments from said base points to said points of destination, charging, demanding, collecting and receiving said advanced rates;" and that said advanced rates are unlawful and in violation of the act to regulate commerce, because (1), the public notice of 10 days as required by section 6 of said act was not made or given, (2), they are unjust, unreasonable and excessive, and (3), they materially injure an important industry and a large class of shippers who have during the last 25 years, at an expense of millions of dollars, built up in the State

of Florida a valuable and productive industry, to wit, the growth and production of oranges, lemons and other citrus fruits, in reliance upon the continuance or probable decrease of the said previous rates voluntarily established and so long maintained.

The complainants ask that after hearing an investigation an order be made by this commission commanding the defendants to cease and desist from said alleged violations of the act to regulate commerce, and "requiring them thereafter to transport oranges and lemons at the rate of 25 cents per standard box by rail and water between said Florida base points and Baltimore, Philadelphia and New York, with differential rates added when shipments go between said points via all-rail lines," and that each of the defendants which have participated in such alleged excessive increased rates
27 be required to refund such excess to the shippers, and for general relief.

All the defendants have filed answers.

The Washington Southern Railway Company (as successor of the Alexandria & Fredericksburg Railway Company and of the Alexandria & Washington Railway Company), the Baltimore & Potomac Railroad Company, the Philadelphia, Wilmington & Baltimore Railroad Company and the Pennsylvania Railroad Company answer jointly. They admit that they constitute part of the Atlantic Coast Despatch line as set forth in the complaint, but allege that they did not unite in a through rate prior to October 1, 1888. They admit that the through rate in effect by said line from Jacksonville, Florida, to New York from said date, Oct. 1, 1888, to Oct. 31, 1890, was 43 cents per standard box of 80 pounds; that on November 1, 1890, said rate was advanced to 53 cents, and that since said advance they have received their proportions respectively of the through advanced rate. They deny that the proportions of the rate prior to the advance received by them afforded ample compensation for the service rendered, and that the advanced rate is unjust, unreasonable or excessive, or in any respect in violation of the act to regulate commerce, and aver that under the old rate the business was conducted over their lines at loss and that under the present rate (of which they allege they receive only an average of eight mills per box to Washington, Baltimore, Philadelphia and New York), the traffic "barely pays the expenses of movement and is not, as yet, fairly remunerative."

The Northeastern Railroad Company of South Carolina, the Wilmington, Columbia & Augusta Railroad Company, the Wilmington & Weldon Railroad Company, the Petersburg Railroad Company, and the Richmond & Petersburg Railroad Company, also file a joint answer in which they admit that the through rates on
28 oranges have been, since the season of 1885–'86, made up of the rates charged by the gathering railroads in Florida to the basing points and the through rates therefrom to points of destination; that through rates on said traffic from the basing points to Baltimore, Philadelphia and New York existed over the Atlantic Coast line and the Atlantic Coast Despatch line from said season of 1885–'86 until and during that of 1889–'90, and during the said

period the rates over said lines were as stated in the complaint; that each of the roads composing said lines divided said rates in certain agreed proportions, and that in November, 1890, said several carriers combined and agreed to advance and did advance said rate 10 cents per standard box, and have been, and are now, charging and receiving such advanced rates. They deny that the old rates afforded ample compensation for the services rendered and that the advanced rates are unreasonable and excessive or otherwise in violation of the act to regulate commerce.

The Savannah, Florida & Western Railway Company admits that during and since the season of 1885–'86 it has been one of the carriers constituting the 3d, 4th and 5th lines mentioned in the complaint; that these lines have respectively made through rates from the basing points, which rates consist of the rates charged by the gathering railroads in Florida to such basing points and the through rate therefrom to the point of destination; that each of said lines divided said rates in certain agreed proportions between the carriers composing them; that said rates to New York were as alleged in the complaint from the season of 1885–'86 to that of 1889–'90, both inclusive, and that in November, 1890, said carriers by agreement advanced said rates 10 cents per standard box, and have been and are now charging and receiving the rates so advanced. It denies that the old rate "afforded ample compensation for the
29 service rendered," and that the advanced rates are unjust, unreasonable and excessive, or otherwise in violation of the act to regulate commerce.

The answer of the Charleston & Savannah Railway Company admits that it is one of the carriers constituting the 4th and 5th lines mentioned in the complaint, and is in other respects substantially the same as that of the Savannah, Florida & Western Railway Company.

The Ocean Steamship Company of Savannah also adopts the answer of the Savannah, Florida & Western Railway Company "in so far as the answer of said railway company may apply to a carrier by water," admitting the facts admitted in said answer and denying the allegations therein denied. It further alleges that it is a common carrier engaged in the carrying business solely upon navigable waters of the United States, and receives all its orange business from said Savannah, Florida & Western Railway Company, and that said railway company publishes and issues the rates required by law on behalf of said steamship company for the carriage of oranges.

The Richmond, Fredericksburg & Potomac Railroad Company admits that its road is a part of the "Atlantic Coast Despatch line," and that the rate in effect between Oct. 1888, and Oct. 31, 1890, by said line from Jacksonville, Florida, to New York was 43 cents per box of eighty pounds; that Nov. 1, 1890, said rate was advanced 10 cents and that it has since said advance received its proportion of the advanced rate. It denies that the old rate "afforded either ample or adequate compensation for the service rendered so far as its proportion was concerned," and avers that, "in order to facilitate the transportation of oranges and lemons between Florida and

Northern cities, it together with the other companies composing the Atlantic Coast Despatch line put on additional trains at a rate of speed much higher than that of other freight trains over said
30 line, and procured special equipment to the end that this business should be promptly and safely moved to its destination." It denies also that the advanced rate is unreasonable and excessive, or otherwise in violation of the act to regulate commerce.

The answer of the Seaboard & Roanoke Railroad Company admits the formation of the lines and the making and advance of rates as alleged in the complaint, but denies that the rates in force before such advance afforded ample compensation for the service rendered, and also denies that the advanced rates are unjust and unlawful or in violation of the act to regulate commerce. It avers in this connection that, "in order to accommodate the business of transporting oranges and lemons between the base points in Florida and the points of destination, a portion of the railroad companies complained of put on an additional schedule, making twenty miles per hour, or nearly double the speed of other freight trains over said roads; that special equipment has been provided and a number of cars supplied with air brakes and automatic couplers in order to facilitate the business, while the revenue does not exceed 8 mills per ton per mile; that in order to handle the business promptly the delivering roads require the grouping of certain destinations and loading in separate cars to accommodate this grouping, and, as a result, the cars transporting oranges and lemons average only about 60 per cent. of their full capacity, and the business is handled at a season of the year when their is but little return freight south bound, and in many cases the cars are returned empty."

The Baltimore Steam Packet Company, the New York & Texas Steamship Company and the Clyde Steamship Company, file separately the same answer, in which, "reserving all questions of law and of fact and waiving no objections in law to the proceed-
31 ings, and in consideration of the fact that any change of rate by any of the rail and water or all-rail lines between Florida and the Northern points will more or less affect the rates" of their lines, they allege, "that the rates complained of, in view of the expensive character and rapidity of the transportation required by the delicate and perishable nature of the article in question, are neither unjust or unreasonable * * * and have not been and are not now properly remunerative to the carrier."

It is alleged in the complaint that the Florida Central & Peninsular railroad is the only one of the defendants "wholly in the State of Florida" and that "the rest are included in lines partly within the State of Florida or entirely beyond its limits." This allegation is admitted by the Florida Central & Peninsular road, and also the existence of the several lines mentioned in the complaint; but it denies that the alleged rates over said lines were made by it and avers that "its participation in the carriage of oranges and lemons has been upon the allowance of its locals to the basing point which is the terminus of its carriage in each case." It further denies any participation in the advance of rates complained of.

Most of the answers also put in issue the allegations of the complaint that public notice was not given of the advance in rates as required by the act to regulate commerce, and that the advanced rates materially injure the business of growing oranges and other citrus fruits in Florida, "built up in reliance upon the continuation of probable decrease" of the old rates.

*Facts and Conclusions.*

The right of the complainant, while in existence, to institute and prosecute this proceeding is not denied by the defendants,
32 but in a brief filed July 20, 1891, in behalf of the Pennsylvania railroad, the Atlantic Coast line, the Savannah, Florida & Western Railway Company and the Ocean Steamship Company of Savannah, attention is called to an act of the legislature of Florida, approved June 13, 1891, and taking effect from and after its passage, by which the act creating "The Railroad Commission of Florida" (the complainant), is repealed, and it is contended that said commission having been abolished there is now no "complaint before this commission for investigation," and on that ground objection is made to further proceedings herein.

This is in effect a denial of the jurisdiction of this commission to further entertain and investigate the complaint.

The act to regulate commerce makes it the duty of this commission to "investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or Territory, at the request of such commissioner or commission." The complaint in this case was forwarded by the railroad commission of Florida, and a hearing was had before the repeal of the law creating that commission. That repeal did not and could not operate as a withdrawal or dismissal of the complaint. "The railroad commission of Florida" was only the conduit or instrument for the transmission of the complaint to this commission, and had fully performed that function before an end was put to its existence. It was only a nominal complainant, and the complaint was made by it in its public capacity as a bureau or department of the State government, under the authority given it in the act of its creation "to take all necessary and expedient measures to secure to the people of Florida the full benefit of the interstate-commerce law in the regulation and control of interstate commerce." The real parties in interest are large classes of growers, buyers and shippers; and to abate
33 or dismiss the proceeding because the nominal complainant has been abolished would be to sacrifice substance to form in contravention of the spirit and letter of the act to regulate commerce and of the rules of courts of law in analogous cases. (Thompson *vs.* United States, 103 U. S., 480; The Sapphire, 11 Wall. 164: Bacon's Abridgment "Abatement" "F," pp. 15, 16.) Moreover, the act to regulate commerce authorizes this commission to "institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made," so that neither a complaint nor complainant is necessary to confer jurisdiction. The

power given is not merely to "institute," but also to investigate and determine, and therefore includes the power to investigate and determine a matter originally brought to the attention of the commission by a complainant which in contemplation of law has ceased to exist. If a case should arise, under such circumstances, in which it appeared that injustice might result to any interest from a continuance of the inquiry, this commission would, in the exercise of its discretion, make such order as the exigency required; but the defendants in this proceeding have had a full and fair hearing upon the merits, the real question at issue has been thoroughly investigated, and no injury or disadvantage can result to them from a final determination on the evidence submitted.

The next question is, whether certain of the defendants, namely, The Clyde Steamship Company, The New York & Texas Steamship Company (known as the Mallory line) and The Florida Central & Peninsular Railroad Company are common carriers engaged in interstate commerce as alleged in the complaint and as such subject to the jurisdiction of this commission under the act to regulate commerce. The other defendants are, under the admissions of
34 their answers as well as the evidence, clearly within the purview of the law in respect to the traffic involved in the complaint.

While the Clyde Steamship Company and the New York & Texas Steamship Company constitute all-water lines, they each engage, in connection with the railroads, in the transportation of oranges from points in Florida to northeastern cities under through bills of lading and they joined in the action of the various railroad and steamship lines in advancing the rates in question and in the notice thereof to shippers issued Nov. 12, 1890. The Florida Central & Peninsular Railroad Company is the only one of the defendants wholly in the State of Florida and is not included in the lines set forth in the complaint, and it alleges as above stated that "its participation in the carriage of oranges and lemons has been upon the allowance of its local to the basing point, which is in each case the terminus of its service." This road, however, receives and carries oranges from points in Florida on its lines for delivery to other carriers to be transported to northeastern cities, issues through rates on such traffic and through bills of lading therefor, and is represented at the meetings of the transportation lines mentioned in the complaint at which such through rates are made. Upon these undisputed facts, and under the decision of this commission heretofore several times promulgated, these companies are carriers of interstate commerce and subject to the jurisdiction of this commission in respect thereto. (Chamber of Commerce of Milwaukee *vs.* Flint & Pere Marquette R. R. Co. *et al.*, 2 Inters. Com. Rep. 393, 2 I. C. C. Rep. 553; Mattingly *vs.* Penn Co., 2 Inters. Com. Rep. 806, 3 I. C. C. Rep. 592; 4th Annual Report of I. C. C. 57, 3 Inters. Com. Rep. 337.)

As to the notice of advance in rates, it appears that the
35 Savannah, Florida & Western Railway Company forwarded to this commission such notice as to the rates via Savannah and the Ocean Steamship Company, the Atlantic Coast line and

the Atlantic Coast Despatch line. These notices were not received by the commission until Nov. 14, 1890, nine days before the increased rates were to become effective. The notices themselves were not dated, but the letter enclosing them bore date Nov. 12, 1890. The testimony is conflicting and unsatisfactory as to whether notices to the public of the increased rates were posted in conformity with the order of this commission of March 23, 1889, at all the orange shipping points on the lines of defendants in Florida. Notices, however, in substantial compliance with that order appear to have been duly posted at the principal shipping points and to have been sent to the other points in time to reach them all—with probably one or two exceptions—within the required time. It is provided in section 6 (as amended) of the act to regulate commerce that "no advance shall be made in joint rates, fares and charges shown upon joint tariffs except after ten days' notice to the commission * * *" and that the commission "may prescribe from time to time the measure of publicity which common carriers shall give to advances * * * in joint tariffs." Pursuant to this authority, the commission has by order of March 23, 1889, required ten days' notice of an increase of joint rates to be posted at shipping points of the commodity or commodities affected by the increased rates. By section 10 of the act, the "wilfully" omitting or failing, on the part of a common carrier subject thereto, "to do any act, matter or thing in the act required to be done," is made a misdemeanor, punishable "on conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed" by a fine of not exceeding five thousand dollars for each offense. Carriers are also made, by section 8 of the act, liable in damages
36 to the person or persons sustaining injury in consequence of such failure or omission, and under section 9 such person or persons may either make such injury and damage the ground of complaint to this commission or bring suit for the recovery of the damages in any district or circuit court of the United States of competent jurisdiction. As to criminal prosecutions under section 10 of the act this commission may apply to a district attorney of the United States to "institute in the proper court and prosecute, under the direction of the attorney general of the United States, all necessary proceedings for the enforcement of the provisions of the act and for all violations thereof;" and in case a person or persons injured by a violation of the act elect to make complaint to this commission, it is made its duty by section 14 of the act, after investigation, to recommend "what reparation, if any, should be made by the common carrier to the party or parties found to have been injured." It will be observed that it is only the "wilfull" failure or omission to comply with a requirement of the act which is made a misdemeanor under section 10, and that under section 14, the commission can only recommend reparation in cases of injury sustained from such omission or failure. The facts in this case do not show that the defendants "wilfully" omitted or failed to notify this commission of the advance in rates as required by the act and to post notices to the public thereof as required by the order of this

commission, and there is no proof whatever of any damage or injury sustained by any one by reason of such failure or omission. There is, therefore, no case made for an application by the commission to a district attorney for the institution of a prosecution and no ground for a recommendation of reparation for injury sustained. It may be further noted in this connection that a proposed advance in orange rates had been commented on in the Florida papers
37 and was a matter of general notoriety throughout the State, and it is not probable that any one was damaged by the alleged failure to give the notice the exact length of time prescribed in the order of the commission.

The important and difficult question is that raised by the charge that the advanced rates are in themselves unjust and unreasonable and therefore in violation of section 1 of the interstate-commerce law. The facts bearing more or less directly on this question as disclosed by the testimony taken at the hearing and data on file with this commission are as follows:

1. Jacksonville, Callahan, Gainesville, Live Oak, and Lake City are base points in Florida for the shipment of oranges to the northeastern cities, Baltimore, Philadelphia, New York, Boston and Providence, and the through rates from the "gathering points" to said cities are made up of the local rates to said base points, plus the through rates thence over the several lines described in the complaint to destination, and the freight is shipped on through bills of lading over said lines from the local or gathering points. The rates from all these base points are the same to each of said points of destination. These rates prior to Nov. 23, 1890, were from said base points to New York as follows: By the Clyde line, the Mallory line, and the line composed of the Savannah, Florida & Western railway and the Ocean Steamship Company, 30 cents per standard box of 80 pounds; by the Atlantic Coast line 37½ cents per standard box; and by the Atlantic Coast Despatch line (all rail), 43 cents per standard box. The rates by said lines to said other cities were in proportion to those to New York, being less to Baltimore and Philadelphia and greater to Providence and Boston.

2. In November, 1890, an advance of 10 cents on the above rates to all northeastern points was made to become effective on
38 the 23d of that month. By this advance the rates from the base points to New York by the first three lines above mentioned became 40 cents per box; by the Atlantic Coast line 47½ cents and by the Atlantic Coast Despatch line 53 cents; and the rates to said other cities were equally increased. At a prior meeting of the managers and traffic agents of the lines this advance in rates could not be agreed upon, and it was referred to their respective presidents, by whom it was finally adopted and ordered to be put in force. The increased rates have been charged and received by all the lines since Nov. 23, 1890.

3. The following tables show the rates which had prevailed from Jacksonville (and presumably from the other base points) via Savannah and steamship, Savannah and the Atlantic Coast line and Savannah and the Atlantic Coast Despatch line, to Baltimore,

Philadelphia, New York and Boston, from the initial dates named therein to Nov. 23, 1890:

*Rates on Oranges from Jacksonville, Fla., to Points Named via Savannah and Steamship.*

| To Baltimore. | | Phila., Pa. | | New York. | | Boston, Mass. | | Taking effect. |
|---|---|---|---|---|---|---|---|---|
| Bx. | Brl. | Bx. | Brl. | Bx. | Brl. | Bx. | Brl. | |
| .50 | 1.00 | .50 | 1.00 | .50 | 1.00 | .50 | 1.00 | October 3, 1881. |
| .50 | 1.00 | .50 | 1.00 | .50 | 1.00 | .50 | 1.00 | October 15, 1883. |
| .50 | 1.00 | .50 | 1.00 | .50 | 1.00 | .50 | 1.00 | November 15, 1883. |
| .30 | .60 | .30 | .60 | .30 | .60 | .30 | .60 | October 6, 1884. |
| .40 | .80 | .40 | .80 | .40 | .80 | .40 | .80 | January 12, 1885. |
| .40 | .80 | .40 | .80 | .40 | .80 | .40 | .80 | September 7, 1885. |
| .40 | .80 | .40 | .80 | .40 | .80 | .40 | .80 | September 15, 1886. |
| .30 | .60 | .30 | .60 | .30 | .60 | .30 | .60 | November 18, 1886. |
| .30 | .60 | .30 | .60 | .30 | .60 | .30 | .60 | September 1, 1887. |
| .30 | .60 | .30 | .60 | .30 | .60 | .30 | .60 | September 15, 1887. |
| .30 | .60 | .30 | .60 | .30 | .60 | .35 | .70 | September 20, 1889. |
| .40 | .80 | .40 | .80 | .40 | .80 | .45 | .90 | November 23, 1890. |

39 *Rates on Oranges from Jacksonville, Fla., to Points Named via Savannah and A. C. L., Rail and Water.*

| To Baltimore. | | Phila., Pa. | | New York. | | Boston, Mass. | | Taking effect. |
|---|---|---|---|---|---|---|---|---|
| Bx. | Brl. | Bx. | Brl. | Bx. | Brl. | Bx. | Brl. | |
| .60 | 1.20 | .60 | 1.20 | .60 | 1.20 | .65 | 1.30 | Oct. 15, '83. |
| .50 | 1.00 | .50 | 1.00 | .50 | 1.00 | .60 | 1.20 | Dec. 7, '83. |
| " | " | " | " | " | " | " | " | " 22, '83. |
| .30 | .60 | .30 | .60 | .30 | .60 | .45 | .80 | Oct. 15, '84. |
| .40 | .80 | .40 | .80 | .40 | .80 | .54 | .96 | Jan. 12, '85. |
| " | " | " | " | " | " | " | " | Sep. 13, '85. |
| " | " | " | " | " | " | " | " | Sep. 15, '86. |
| " | " | " | " | " | " | .40 | .60 | Nov. 1, '86. |
| .35 | .70 | .35 | .70 | .35 | .70 | .35 | .70 | " 30, '86. |
| " | " | " | " | " | " | " | " | Sep. 1, '87. |
| " | " | " | " | " | " | .38 | .76 | Oct. 1, '88. |
| " | " | " | " | " | " | " | " | Sep. 20, '89. |
| .37½ | .75 | .37½ | .75 | .37½ | .75 | .40½ | .81 | Oct. 15, '89. |
| .47½ | .95 | .47½ | .95 | .47½ | .95 | .50½ | 1.01 | Nov. 23, '90. |

*Rates on Oranges from Jacksonville, Fla., to Points Named via Savannah and A. C. D., All Rail.*

| To Baltimore. | | Phila., Pa. | | New York. | | Boston, Mass. | | Taking effect. |
|---|---|---|---|---|---|---|---|---|
| Bx. | Brl. | Bx. | Brl. | Bx. | Brl. | Bx. | Brl. | |
| .40 | .80 | .40 | .80 | .40 | .80 | .40 | .80 | Dec. 6, '87. |
| .40 | .80 | .41 | .81 | .43 | .85 | .49 | .98 | Oct. 1, '88. |
| .40 | .80 | .41 | .81 | .43 | .85 | .49 | .98 | Sep. 21, '89. |
| .50 | 1.00 | .51 | 1.02 | .53 | 1.06 | .59 | 1.18 | Nov. 23, '90. |

From these tables it appears, that for the most part, the rates immediately preceding those of Nov. 23, 1890, had been in force about four years. It is claimed by the defendants that these rates did not compensate them for the service rendered, and in explanation of the fact that they were so long maintained, W. P. Hardee, general freight agent of the Savannah, Florida & Western Railway Company, testified that the 30-cent rate by the first three lines was a war rate made on account of the water line from New York to Jacksonville, established in 1886, and that it remained in force for
40 about four years because of a "misunderstanding of the lines regarding those rates." C. D. Owen, traffic manager of the Plant system, testified, however, in reference to the long continuance of these rates, that there was much depression in business over Florida during the four years from November, 1886, to November, 1890, resulting from a freeze in January, 1886, and the yellow fever epidemic in 1887, which was not declared off until December, 1888, and that because of such business depression it was not deemed advisable to raise the rates during that period.

4. The orange crops for said years have steadily increased in volume, being as follows:

| | | |
|---|---|---|
| Season of 1886–'87 | 1,260,000 | boxes. |
| " 1887–'88 | 1,500,000 | " |
| " 1888–'89 | 1,950,000 | " |
| " 1889–'90 | 2,150,000 | " |

The testimony is to the effect that the crop of 1890–'91 will be larger than that of the preceding season.

The raising of oranges is becoming each year more expensive on account of the increasing demand for fertilizers as the lands grow older. The planting of new groves is more expensive than formerly, because young trees for grafting have now to be bought from nurseries, whereas they could be obtained originally from the large growth of wild oranges.

The orange crop is an uncertain one to the individual grower in consequence of the liability to injury from cold and the ravages of insects; but the volume of the aggregate crop is constantly increasing, and will doubtless continue to increase, because of the planting of new groves, and because the groves already planted increase in productiveness and value as they grow older.

The rate on oranges per box in car-loads from Jacksonville to Chicago is 60 cents per box, and the distance 1,030 miles. The distance to New York is 1,075 miles. The shipment of
41 oranges from Jacksonville to Chicago is small as compared with that to New York, and there is no evidence as to the relative conditions in other respects of the transportation of oranges to said two points. The car-load rate on oranges from Los Angeles, Cal., to all points east of the Missouri river is $1.00 per box, the same rate prevailing to New York as to Chicago. The distance to Chicago is about 2,265 miles, and to New York about 3,180 miles.

5. The price of the oranges fluctuates with the quantity produced, and the tendency of increased production is to reduce the price.

The evidence as to the market value of oranges is very indefinite and unsatisfactory. The average price during the season of 1889–'90, as stated by the manager of the Florida fruit exchange, was $1.52 per box after deducting transportation charges and commissions. From this must be deducted the cost of cultivation, wrapping and all expenses for putting the fruit on the car, which is estimated by an orange-grower (Delano) at 80 cents per box. This would leave a profit of 72 cents per box, exclusive of interest on investment and other charges not included in above estimate. The commissions now charged are 8 per cent. on gross sales, and the selling price of a box, in order to net $1.52, after deducting commissions and transportation charges, must be about $2.00. The orange season begins about the first of October and runs through October, November, December and January, when it begins to fall off. The heaviest months are December and January. The average weight of a box of oranges is 80 pounds and the average number in a box 150.

6. About two-thirds of the Florida orange crop goes east to Baltimore, Philadelphia, New York, Providence and Boston, and
42 one-third west to Cincinnati, Chicago and other Western points. The bulk of the shipments go by the lines leading out of Gainesville, Callahan, Jacksonville and Fernandina.

The following is the number of tons of the principal articles transported by the Savannah, Florida & Western during the year ending June 30, 1890, according to the statement of W. P. Hardee, general freight agent of that road:

| | |
|---|---|
| Oranges | 64,285 tons. |
| Melons | 21,983 " |
| Fruits and vegetables | 22,408 " |
| Cotton | 62,057 " |
| Grain, flour and other mill products | 81,549 " |
| Fertilizers | 65,652 " |
| Hay and fodder | 15,212 " |
| Lumber and wood | 358,672 " |
| Naval stores | 136,121 " |
| Stone, sand and other like articles | 19,998 " |
| Cement, birch and lime | 13,071 " |
| Other articles | 238,452 " |
| Total | 1,099,460 " |

According to this statement the tonnage of oranges on that road exceeded that of cotton by 2,228 tons, and was about three-fourths of the orange crop of that year.

There are twenty-five boxes (80 lbs. each) to a ton and 64,285 tons would be 1,607,125 boxes. At the old rate of 30 cents the revenue from that number of boxes would be $482,137.50, or $7.50 per ton. From tariffs issued by the Savannah, Florida & Western Railway Company on file with this commission, effective Oct. 3, 1889, it appears that the rates on cotton from Callahan, Jacksonville, Live Oak and Lake City, Florida, to New York via steamship, were then not quite twice as much per ton as those on oranges; but

a tariff recently filed, taking effect Sept. 12, 1891, makes a rate on cotton which is only about 20 per cent. higher than the 40-cent rate on oranges. The gross value of a ton of oranges at $2.00 per box is $50.00, while that of a ton of cotton is from $180.00 to $200.00.

43 It was stated by G. M. Sorrell, manager of the steamship line from Savannah, that a ton of cotton (whether compressed or uncompressed does not appear) occupies about twice as much space as a ton of oranges, but that the best part of a ship—that best ventilated—must be reserved for oranges, and their handling is expensive, while cotton can be carried anywhere and handled in any way.

7. In transporting oranges by rail a ventilated car is required, but the cars in actual use are ordinary box cars with gratings. There is nothing in the character of orange cars that prevents their use for other freight. The busy season with the carriers from and to Florida points is in the winter, and the increase of business consists principally in the shipment north of cotton, oranges and other fruit. More freight also comes from the North in winter than at any other season. The freight coming south via Portsmouth and Norfolk and via the all-rail line is comparatively small, but more or less comes by the Ocean Steamship Company via Savannah. As to the lines from Florida points of the Savannah, Florida and Western Railway and Ocean Steamship Company, cars carrying oranges north generally return loaded. Most other orange cars return south empty. There is a through train, known as No. 208, on the all-rail line from Jacksonville to New York, which is practically an exclusive orange or "perishable freight" train; the other trains carrying oranges take other freight, and sometimes in the same cars with oranges. Train No. 208 was put on in 1887, and ran from 1887 to 1890 under the old freight rates. The speed of the "perishable" freight train is about 18 miles an hour, while the ordinary schedule is from 12 to 14 miles, and the "perishable" train has the right of way over

44 other freight trains. On the orange or "perishable" traffic the movement is at a higher rate of speed, and there is a smaller average loading than of other freight, while to obtain the necessary speed the number of cars to a train is limited. The increased speed causes a larger consumption of coal and in other ways somewhat enhances the cost of transportation.

On the arrival of the "perishable" freight train in Jersey City for New York delivery, the labor detailed at that station stops handling other freight and give "the perishable freight" special attention. The cars are run on floats from the Jersey side of the river and brought to the pier on the New York side, where the freight is unloaded in what are called "consignees' stores," which are given to the trade free of rent. Pier 29, which covers about 50,000 square feet and the shedding of which cost the Pennsylvania Company $45,000.00, is devoted exclusively to the "perishable" traffic and consignees use it as their sales-room without charge. For the "perishable" freight the force comes on at 7 p. m., and a night force of watchmen and clerks is required. There is also an expenditure for

gas. The "perishable" freight is ready for delivery at midnight, while for ordinary freight the gates are not opened until 7 o'clock in the morning. Train No. 208 is made up so that freight for New York is nearest the engine, and next that for Newark, Philadelphia, Wilmington, Baltimore and Washington in the order named. The trains are tendered the Pennsylvania line in this order at Richmond and this equalizes to some extent the terminal service performed by that line at New York.

8. The facilities for handling the orange business have been much improved of late and there is now little or no fault found with the carriers in that respect. A faster ship, the Kansas City
45 which cost $500,000 and makes 16 knots an hour, has been put on by the steamship line from Savannah. The Ocean Steamship Company have set aside one-half of one of their piers in New York, rented at from $40,000 to $45,000 per annum, for the special care of oranges, and steam has been introduced so as to keep them warm in cold weather. This special provision for the care of oranges was made with a view of bringing business to that line and no charge is made for it. There has been also an increase of platforms at Jacksonville and other points for the "perishable" freight service. At Wilmington a special yard for "perishables" was constructed two seasons ago at a cost of from $15,000 to $18,000, for handling the business and inspecting the trains at that point, and, at Richmond, the roads have just completed a track around the city at a cost of $150,000. This expense at Richmond was necessitated by the heavy grade of 120 feet, which prevented the handling of fast freight there in less than three hours. Other freight besides "perishables" are hauled over this improvement, and it is an addition to the general facilities of the road.

9. The following tables are compiled from data furnished by the carriers and on file in the auditor's office of this commission. The first relates to the all-rail line (Atlantic Coast Despatch line) and shows the through rates on oranges by that line from Florida "base points" to the northeastern cities named, and the rate per ton per mile both under the rates in force at the date of the advance and also under the advanced rates, and the divisions of the advanced rates between the different portions of the line. The second gives the through rates, old and new, and divisions of the new on the rail and water line via Portsmouth, and the third, the through rates via
46 Savannah and the steamship. There are no data showing the rate per ton per mile except on the all-rail line, as the mileage by water is not estimated, and there is no division of the rate via Savannah and steamer.

| To | Baltimore. | | | | Philadelphia. | | | | New York city. | | | | Boston, Mass. Providence, R. I. | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| From— Jacksonville, Fla., Callahan, " Live Oak, " Gainesville, " Lake City, " | Mileage. | Per box. | Per barrel. | Rate per ton per mile. | Mileage. | Per box. | Per barrel. | Rate per ton per mile. | Mileage. | Per box. | Per barrel. | Rate per ton per mile. | Mileage. | Per box. | Per barrel. | Rate per ton per mile. |
| S. F. & W. R'y tariff, season 1889 and 1890, issued December 5, 1889.. | 889 | 40 | 80 | $1\frac{1}{10}$ | 985 | 41 | 81 | $1\frac{1}{100}$ | 1075 | 43 | 85 | 1 | 1288 | 49 | 98 | $0\frac{95}{100}$ |
| S. F. & W. R'y tariff, November 23, 1890 | " | 50 | 100 | $1\frac{38}{100}$ | " | 51 | 102 | $1\frac{39}{100}$ | " | 53 | 106 | $1\frac{33}{100}$ | " | 59 | 118 | $1\frac{14}{100}$ |
| S. F. & W. R'y tariff, season 1890 and 1891, issued December 18, 1890..... | " | 50 | 100 | $1\frac{38}{100}$ | " | 51 | 102 | $1\frac{39}{100}$ | " | 53 | 106 | $1\frac{33}{100}$ | " | 59 | 118 | $1\frac{14}{100}$ |
| | Divisions. | | | | Divisions. | | | | Divisions. | | | | Divisions. | | | |
| S. F. & W. R'y | | 18 | 37.5 | | | 18 | 37.5 | | | 18 | 37.5 | | | 18 | 37.5 | |
| A. C. Desp. to Richmond or Portsmouth | | 23 | 44.5 | | | 22 | 42.5 | | | 22 | 42.5 | | | 21.5 | 41.5 | |
| North | | 9 | 18 | | | 11 | 22 | | | 13 | 26 | | | 19.5 | 39 | |
| Total | | 50 | 100 | | | 51 | 102 | | | 53 | 106 | | | 59 | 118 | |

48 *Rail and Water via Portsmouth, or Pinner's Point; Rates on Oranges Immediately Preceding Nov. 23, 1890, and to Present Date.*

| To | Balto., Md. | | Phila., Pa. | | N. Y. city. | | Boston, Mass. Prv., R. I. | |
|---|---|---|---|---|---|---|---|---|
| From— Jacksonville, Fla. Callahan, " Live Oak, " Gainesville, " Lake City, " | Per box. | Per barrel. | Per box. | Per barrel. | Per box. | Per barrel. | Per box. | Per barrel. |
| S. F. & W. R'y tariff, season 1889 and 1890, issued Dec. 5, 1889 | 37.5 | 75 | 37.5 | 75 | 37.5 | 75 | 40.5 | 81 |
| S. F. & W. R'y tariff, Nov. 23, 1890 | 47½ | 95 | 47½ | 95 | 47½ | 95 | 50½ | 1.01 |
| S. F. & W. R'y tariff, season 1890 and 1891, issued Dec. 18, 1890 | 47½ | 95 | 47½ | 95 | 47½ | 95 | 50½ | 1.01 |
| | Div'sions. | | Div'sions. | | Div'sions. | | Div'sions. | |
| S. F. & W. R'y | 18 | 37.5 | 18 | 37.5 | 18 | 37 | 18 | 37.5 |
| A. C. line, Savannah to Pinner's Point or Portsmouth. | 24.2 | 47 | 22.8 | 44.3 | 22.8 | 44.3 | 23.2 | 45.3 |
| Steamer | 5.3 | 10.5 | 6.7 | 13.2 | 6.7 | 13.2 | 9.3 | 18.2 |
| Total | 47½ | 95 | 47½ | 95 | 47½ | 95 | 50½ | 101 |

NOTE.—Mileage given above is from Jacksonville. Divisions apply from Jacksonville and Callahan only.

*Via Savannah & Steamer; Rates on Oranges Immediately Preceding November 22, 1890, to Present Date.*

| To | Balto., Md. | | Phila., Pa. | | N. Y. city. | | Boston, Mass.; Prov., R. I. | |
|---|---|---|---|---|---|---|---|---|
| From— Jacksonville, Fla. Callahan, " Live Oak, " Gainesville, " Lake City, " | Per box. | Per barrel. | Per box. | Per barrel. | Per box. | Per barrel. | Per box. | Per barrel. |
| S. F. & W. R'y tariff, season 1889 and 1890, issued Dec. 6, 1889 | 30 | 60 | 30 | 60 | 30 | 60 | 35 | 70 |
| S. F. & W. R'y tariff, Nov. 23, 1890 | 40 | 80 | 40 | 80 | 40 | 80 | 45 | 90 |
| S. F. & W. R'y tariff, season 1890 and 1891, issued Dec. 18, 1890 | 40 | 80 | 40 | 80 | 40 | 80 | 45 | 90 |

10. The following statement, in reference to freight in general, of average receipts per ton per mile and estimated cost of carrying a ton a mile, for the years ending June 30, 1889, and 1890, is taken from the report of the carriers named therein on file in the office of the statistician of this commission:

| Road. | Average receipts per ton per mile. | | | | Estimated cost of carrying a ton a mile. | | | |
|---|---|---|---|---|---|---|---|---|
| | 1889. | | 1890. | | 1889. | | 1890. | |
| | Cts. | Mills. | Cts. | Mills. | Cts. | Mills. | Cts. | Mills. |
| Atlantic Coast Line Association, reporting for N. E. R. R. of S. C., Wil. & Wel. R. R., Wil., Col. & Aug. R. R., Petersburg R. R., and Richmond & Petersburg R. R. | 1 | 824 | 1 | 593 | 1 | 015 | ..... | 796 |
| Charleston and Savannah railroad | 1 | 397 | 1 | 201 | ..... | 862 | ..... | 694 |
| Florida Cent. & Pen. R. R. | 1 | 508 | 1 | 554 | 1 | 097 | 1 | 200 |
| Pennsylvania R. R. | ..... | 685 | .... | 661 | ..... | 486 | ..... | 457 |
| Alexandria & Fred. R'y | ..... | 834 | ..... | 746 | ..... | 920 | .... | 891 |
| Alexandria & Wash. R. R. | ..... | ..... | ..... | 973 | ..... | ..... | ..... | 939 |
| Washington South. R'y | ..... | ..... | ..... | 746 | ..... | ..... | ..... | 783 |
| Balto. & Potomac R. R. | 1 | 389 | 1 | 326 | 1 | 182 | 1 | 197 |
| Phila., Wil. & Balto. R. R. | 1 | 517 | 1 | 356 | 1 | 231 | 1 | 068 |
| Rich., Fred. & Potomac R. R. | 1 | 152 | 1 | 040 | ..... | 962 | ..... | 833 |
| Sav., Fla. & Western R'y | 1 | 588 | 1 | 378 | 1 | 135 | ..... | 983 |
| Seaboard & Roanoke R. R. | 2 | 115 | 1 | 982 | 1 | 129 | 1 | 013 |

51 (NOTE.—The report of the Alexandria & Fredericksburg railway and the Alexandria & Washington railroad is, as to 1890, for the nine months ending March 31 of that year; of the Alexandria & Washington railway for 1889, is included in that of Alexandria & Fredericksburg railway; and of the Washington Southern railway is for the three months ending June 30, 1890.)

11. The Savannah, Florida & Western railway is a part of the last three lines mentioned in the complaint, and as the initial road has the burden of assorting, loading and billing about 60 per cent. of the orange freight received at Jacksonville. Under the division of the new through rate that road receives 18 cents per box for 172 miles transportation, which is a rate of 2.6 cents per ton per mile and largely in excess of that received by the other roads.

If the through rates were divided on a mileage basis the proportion of the other roads would be increased. For example, the through rate of 53 cents per box on the all-rail line from Jacksonville to New York is divided so as to give the following rates per ton per mile on the different portions of the line:

Sav., Fla. & West. R'y, 172 miles, 2.6 cents per ton per mile.
Charleston & Savannah, 115 miles, .89 cents per ton per mile.
Charleston to Richmond, 443 miles, 1 cent per ton per mile.
Richmond to New York, 345 miles, .94 cents per ton per mile.

The rate per ton per mile from Jacksonville to New York under the old rate, 43 cents per box, was 1 cent and under the new rate is 1.23 cents.

52 From these figures it appears that, with the exception of the Savannah, Florida & Western railway, none of the roads composing the all-rail line receive more per ton per mile under the new rate than they would have received on a division of the old rate on a mileage basis, and the roads from Charleston to Savannah and from Richmond to New York receive less.

It will be noted that the Washington Southern Railway Company, the Baltimore & Potomac Railroad Company, the Philadelphia, Wilmington & Baltimore Railroad Company, the Pennsylvania Railroad Company, and the Richmond, Fredericksburg & Potomac Railroad Company in their answers only deny that their "proportions" of the through rate prior to the advance afforded ample compensation for the service rendered.

Of the old rate of 43 cents per box by the all-rail line from Jacksonville to New York, the proportion of the Savannah, Florida & Western railway was 13 cents for 172 miles, which was 1.88 cents per ton per mile. As that road receives 18 cents under the new rate, it is seen that one-half of the advance is given to it on 172 miles of the line, while to the whole remainder, 903 miles, is allot-ed the other half. The addition of 5 cents to the proportion of the Savannah, Florida & Western for 172 miles is an increase of .72 cents per ton per mile, which, added to the 1.88 cents received under the old rate, makes the present rate 2.6 cents per ton per mile. The proportion of the Savannah, Florida & Western was the same by the all-rail and by the rail and water lines from Jacksonville, Callahan, etc., to New York, viz: 13 cents at the old rates, and remains

the same by both routes viz: 18 cents at the new rates, and that proportion prevails as to the other northeastern cities. That road, therefore, receives half of the advance on all said lines between said points and about the same proportion from the other base points.

53 While the complainant has no interest in the division the defendants make between themselves, and that division does not determine what the charge to the public should be, yet "it is not without significance in determining what are reasonable rates for the whole distance on the lines in question." (Brady *vs.* Penn. R. Co., 2 Inters. Com. Rep. 78, 2 I. C. C. Rep. 131.)

The Savannah, Florida & Western already had a proportion of the through rate largely in excess of that of the other carriers associated with it, and the disproportion is made still greater by the allotment to it of half the entire advance in rates. Under its proportion of the old rate it received 1.88 cents per ton per mile, and, according to its report, *supra*, the estimated cost of carrying a ton of freight a mile in general over its line was, for the year ending June 30, 1890, .965 cents. Deducting the latter from the former and there is left .915 cents (over 9 mills) as the excess of the rate per ton per mile under the old rate over the estimated cost of its general transportation. Making the same deduction from the rate per ton per mile, 2.6 cents received under the advanced rate, and there is left 1.63 cents as the excess of the present rate over the cost of transportation in general.

The transportation of oranges, it is true, receives special care and attention from the defendants. Cars and steamers are ventilated, trains are run on fast schedules which limit the number of cars and increase the consumption of coal, and extra accommodations and employés are provided at shipping, junction and terminal points. Moreover, most of the cars engaged in this traffic by the all-rail lines return empty, and the cars carrying oranges north are not loaded to their full capacity, the average load not exceeding 19,000 pounds. The service, therefore, is more expensive than that rendered in connection with ordinary freight. But the rate per

54 ton per mile of the Savannah, Florida & Western, under the old rate, was much higher than its average receipts per ton per mile on freight in general. According to its report for the year ending June 30, 1890, that average was 1.378 cents, while its rate on oranges was 1.88 cents, a difference of over 5 mills in favor of the latter. It appears that this company has not paid dividends for some time, but has been an interest-paying road, and there is no reliable evidence that the orange traffic was unremunerative under the old rates. The traffic manager of the Plant system states that his opinion, that the orange traffic of the Savannah, Florida & Western railroad was unremunerative, was based on the fact that the owners said so, and not on personal knowledge of its cost or its general net revenue. It will be observed, also, that the estimated cost of carrying a ton a mile over the line of that road, according to its report, decreased from 1.35 cents in 1889 to .965 cents in 1890.

The fact that the rates immediately preceding the advance had

for the most part continued in force for about four years, unless a satisfactory explanation is made of the long acquiescence of the carriers therein, raises a presumption that they were reasonable—at least, so far as the carriers are concerned. (*In re* Rates on Food Products, 4 I. C. C. Rep. 48, 3 Inters. Com. Rep. 93.)

It is stated that these rates were originally war rates on account of the establishedment in 1886 of a water line from New York to Jacksonville, and that they were continued in force for so long a time because of a "misunderstanding of the lines" regarding them, and on account of business depression in Florida, resulting from a freeze in January, 1886, about ten months before the rates were adopted, and yellow fever epidemic in 1887, which was "declared off" in December, 1888, about two years before the advance
55 rates were put in force. The alleged business depression does not appear to have affected the production of oranges, as it steadily increased during each year of the period in which the old rate was in force.

Moreover, it does not appear that the rapid service and special agencies employed in the carriage of oranges are necessarily required by the nature of the commodity. While spoken of as "perishable" in the testimony of the carriers, it is evident that this characterization is correct only to a limited extent. As is well known, oranges in considerable quantities are shipped by rail across the continent, and brought here also in numerous cargoes by slow vessels from the Mediterranean and other countries. It is an exceptionally hardy fruit and well adapted to long transportation. The shipment is made in packages of convenient size for safe and rapid handling, while in weight, as compared with bulk, it furnishes a relatively high tonnage for the space occupied. In general desirability as freight it differs widely from those more delicate and short-lived products which must be speedily con*con*sumed after they are gathered, and which from their inherent qualities are, *are* ordinarily rendered valueless by accident or delay in transit. Therefore, the special facilities provided by the defendants for the transportation of perishable freight can hardly be claimed, so far as the orange traffic is concerned, to have been added to their general equipment solely because that traffic of necessity demanded high-speed trains and unusual conveniences of delivery. The more probable reason is found in the competition between the different lines and their desire to secure a business so important in volume and so desirable in character. The orange trade from Florida, doubling, as it appears to have done, in the four years preceding the advance in rates, and giving indications of much greater development in the future, naturally attracted the attention of the carriers
56 and prompted rivalry in the inducements offered to shippers. While these special facilities were a manifest advantage to the producer, the extra expenses which they occasioned were voluntarily assumed in competing for the business, and though entitled to fair consideration, cannot be accorded a controlling relation to the rate in question.

It is also to be observed that these added appliances were, for the

most part, put in use long before the advance complained of, and were obviously valuable to the carriers in expediting and increasing their general business.

Carriers making an advance in rates should be able to present a satisfactory justification of such advance, particularly when the old rates have been of many years' standing and the advance is great, ranging as in this case from about 20 to 33⅓ per cent. of the old rate, and the traffic affected is of large and constantly increasing volume and of vital importance to a large section of country.

No definite and reliable data are furnished as to the actual cost to the carrier of the orange traffic. The general manager of the Atlantic Coast line testifies that "there are no special means of estimating it," but he gives the cost on his line as within a small fraction of eight mills per ton per mile. The old rate amounted to 1 cent per ton per mile to New York on the all-rail line (the Atlantic Coast Despatch), which is the only line on which the mileage rate is computed, the other lines being all or partly water. This rate of 1 cent per ton per mile is below the average of receipts on that line on freight in general, as appears from the table in reference thereto above given. The roads composing the all-rail line (exclusive of the Savannah, Florida & Western) have accepted, as before stated, five cents as their share of the increased rate,
57 and that road already had a proportion of the old rate equivalent to 1.88 cents per ton per mile, which was considerably in excess of its average freight receipts.

It is not, however, our intention to determine the apportionment between the several carriers of the through rate, which is deemed reasonable, nor to decide that the reduction which we feel called upon to order shall, so far as rail transportation is concerned, affect only the road receiving half the advance which was, as we understand, agreed upon by all the defendants. We leave the various companies free to make such division of the aggregate charge sanctioned by us as they may agree upon among themselves.

Our conclusion is, after the most careful consideration of the facts and circumstances disclosed by this investigation, that while some increase in the rates prevailing prior to November 23, 1890, was fairly warranted, the advance made at that date of 10 cents a box was without justification and unlawful. That advance, in our judgment, and we so decide, should not have exceeded 5 cents per box, and, so far as it was in excess of that amount, was unreasonable and contrary to law. It may be that a large addition to the present volume of traffic, improved methods of operation reducing the cost of transportation, and other causes will in the near future make the rate now allowed excessive, but in view of the whole situation, as it appears to us at present, we hold that no greater reduction than 5 cents per box should now be required.

The order of the commission is that the defendants and each of them be and they are hereby notified and required to forthwith cease and desist from charging or collecting for the transportation of oranges and lemons any greater sum than an addition of 5 cents per box to the rates in force prior to the advance on November

23d, 1890; that all sums collected by the defendants for such
58 transportation since that date in excess of the rates hereby allowed be and they are hereby determined and adjudged to have been unreasonably and unlawfully received; and that the defendants and each of them be, and they are hereby notified and required to make reparation for the injuries occasioned by such unreasonable and unlawful rates by refunding to the several persons entitled thereto, within sixty days after demand therefor, all sums received by them for such transportation in excess of an addition of 5 cents per box to the rates in force prior to the advance of November 23d, 1890.

Inasmuch as the persons who have paid such illegal charges are not parties to this proceeding, and the amounts wrongfully received from them respectively cannot be ascertained from the evidence already taken, the proceeding will be continued for such further action or inquiry in that behalf as may become necessary.

Filed Dec. 14th, 1891.

PHILIP WALTER, *Clerk.*

Filed in evidence before the master, March 26th, 1892.

JOSEPH H. DURKEE,
*Special Master.*

59 At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 29th day of October, A. D. 1891.

Present: Hon. William R. Morrison, Hon. Wheelock G. Veazey, Hon. Martin A. Knapp, commissioners.

THE RAILROAD COMMISSION OF FLORIDA
*vs.*
THE SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY, The Charleston & Savannah Railway Company, The Northeastern Railroad Company of South Carolina, The Wilmington, Columbia & Augusta Railroad Company, The Wilmington & Weldon Railroad Company, The Seaboard & Roanoke Railroad Company, The Petersburg Railroad Company, The Richmond & Petersburg Railroad Company, The Richmond, Fredericksburg & Potomac Railroad Company, The Alexandria & Fredericksburg Railway Company, The Alexandria & Washington Railway Company, The Baltimore & Potomac Railroad Company, The Philadelphia, Wilmington & Baltimore Railroad Company, The Pennsylvania Railroad Company, The Florida Central & Peninsular Railroad Company, The Baltimore Steam Packet Company, The New York & Texas Steamship Company, The Clyde Steamship Company, The Ocean Steamship Company of Savannah.

60 This case being at issue upon complaint and answers on file, and having been assigned for hearing on the 30th day of March, 1891, and notice thereof having been duly given to each

of the parties to this proceeding, and hearing having been had upon the pleadings, proofs and arguments of counsel on said 30th day of March, 1891, and days subsequent thereto, and the case having thereupon been duly submitted by the parties, and full investigation of all the matters and things involved in this proceeding having been had, the commission did on the date hereof, to wit, the 29th day of October, 1891, make and file a report and opinion containing its findings of fact and conclusions thereon, which said report and opinion is hereby referred to and made a part of this order; and the commission having, as appears by said report and opinions, found and decided, among other things, that through rates established by defendants and now in effect for the transportation over all-rail and part-rail and part-water routes formed by defendants' railroad and steamship lines of oranges and lemons shipped from Jacksonville, Callahan, Gainesville, Lake City, Live Oak, and Fernandina, in the State of Florida, called and known as base points, and from other points of shipment in said State of Florida, to Baltimore in the State of Maryland, Philadelphia in the State of Pennsylvania, New York in the State of New York, and other northeastern cities, are, by reason of the advance in said rates from said base points of 10 cents per box of eighty pounds, or 12½ cents per hundred pounds, put into effect by defendants on the 23d day of November, 1890, unjust and unreasonable and in violation of the provisions of the act to regulate commerce in so far as said rates from said base points and from said other points of shipment increased by the advance aforesaid exceed rates which are 5 cents per box of eighty pounds, or 6¼ cents per hundred pounds
61 higher than through rates per said box or hundred pounds in effect over defendants' lines immediately prior to the 23d day of November, 1890, for the transportation of oranges and lemons between the points aforesaid; and the commission having, as appears by said report and opinion, further found and decided, among other things, that reparation for injuries occasioned by said unjust and unreasonable rates be made by defendants to the several persons entitled thereto and that this proceeding be continued for such further action or inquiry in that regard as may be necessary:

It is ordered and adjudged that the defendants, The Savannah, Florida & Western Railway Company, The Charleston & Savannah Railway Company, The North Eastern Railroad Company of South Carolina, The Wilmington, Columbia & Augusta Railroad Company, The Wilmington & Weldon Railroad Company, The Seaboard & Roanoke Railroad Company, The Petersburg Railroad Company, The Richmond & Petersburg Railroad Company, The Richmond, Fredericksburg & Potomac Railroad Company, The Alexandria & Fredericksburg Railway Company, The Alexandria & Washington Railway Company, The Baltimore & Potomac Railroad Company, The Philadelphia, Wilmington & Baltimore Railroad Company, The Pennsylvania Railroad Company, The Florida Central & Peninsular Railroad Company, The Baltimore Steam Packet Company, The New York & Texas Steamship Company, The Clyde Steamship Company, and The Ocean Steamship Company of Savannah, do forthwith cease

and desist from charging or receiving any greater compensation in the aggregate for the transportation wholly by railroad or partly by railroad and partly by water of oranges and lemons shipped from
Jacksonville, Callahan, Gainesville, Lake City, Live Oak, or
62 Fernandina, in the State of Florida, called and known as base points, or from other points of shipment in said State of Florida, to Baltimore in the State of Maryland, Philadelphia in the State of Pennsylvania, New York in the State of New York, or other northeastern cities, than is found and obtained by adding 5 cents per box of eighty pounds, or 6¼ cents per hundred pounds, to through rates per said box or hundred pounds lawfully charged by them immediately prior to the 23d day of November, 1890, as aggregate compensation for the transportation of shipments of said commodities between the points aforesaid.

It is further ordered and adjudged that said defendants be and they severally are hereby notified and required to make reparation for injuries occasioned by said unreasonable and unlawful rates by refunding to the several persons entitled thereto, within sixty days after demand therefor, for all sums received by them for the transportation of oranges and lemons as aforesaid in excess of an addition of 5 cents per box of eighty pounds, or 6¼ cents per hundred pounds, to through rates per said box or hundred pounds lawfully in force for such transportation over their respective lines immediately prior to the 23d day of November, 1890, and, as the persons who have paid such unreasonable and unlawful charges are not parties to this proceeding and the amounts wrongfully received from them, respectively, cannot be ascertained from the evidence heretofore taken herein, that this proceeding be continued for such further action or inquiry in that behalf as may become necessary.

And it is further ordered that a notice embodying this order be forthwith sent to each of the defendant corporations, together with a copy of the report and opinion of the commission herein, in conformity with the provisions of the fifteenth section of the act to regulate commerce.

63 Interstate Commerce Commission, Washington, D. C.

I, Edward A. Moseley, secretary of the Interstate Commerce Commission, do hereby certify that the papers hereto attached and entitled report and opinion of the commission and order of the commission are true copies of the originals now on file and recorded in the office of this commission.

In testimony whereof, I have hereunto subscribed my
[SEAL.] name, and affixed the seal of the commission, this twenty-seventh day of November, 1891.

EDW. A. MOSELEY, *Secretary.*

*Statement of Shipments by the Florida Fruit Exchange.*

October, '91, to March, '92.

| Destination. | Boxes. Oct., 1891. | Boxes. Nov., 1891. | Boxes. Dec., 1891. | Boxes. Jan., 1892. | Boxes. Feb., 1892. | Boxes. March, 1892. | Boxes. Totals. | Gross average. | Net average. |
|---|---|---|---|---|---|---|---|---|---|
| New York | 2,012 | 10,537 | 24,581 | 21,184 | 29,381 | 21,987 | 109,682 | $1 80 | $1 12 |
| Boston | 765 | 13,633 | 12,303 | 21,401 | 25,113 | 11,915 | 85,130 | 1 82 | 1 02 |
| Philadelphia | 134 | 3,051 | 6,121 | 7,541 | 8,430 | 6,366 | 31,643 | 1 75 | 96 |
| Baltimore | 819 | 3,303 | 6,173 | 5,145 | 5,523 | 4,181 | 25,144 | 1 68 | 90 |
| Totals | 3,730 | 30,524 | 49,178 | 55,271 | 68,447 | 44,449 | 251,599 | $1 79 | $1 05 |

Freight on 251,599 boxes, $146,766.12. Average, 58¼ cents.

65 *Statement of Shipments by Florida Fruit Exchange, Season* 1890 *and* 1891, *to New York, Boston, Philadelphia, and Baltimore.*

| Date. | Boxes. | Gross average. | Net average. |
|---|---|---|---|
| October, 1890 | 2,519 | $3.35 per box. | $2.42 per box. |
| November, 1890 | 5,478 | 5.98 " " | 2.18 " " |
| December, 1890 | 26,048 | 2.54 " " | 1.85 " " |
| January, 1891 | 38,562 | 2.52 " " | 1.72 " " |
| February, 1891 | 48,564 | 2.19 " " | 1.41 " " |
| March, 1891 | 68,854 | 2.22 " " | 1.44 " " |
| April, 1891 | 44,856 | 2.14 " " | 1.38 " " |
| Total | 234,881 | $2.31 " " | $1.54 " " |

66 Interstate Commerce Commission.

I, Edward A. Moseley, secretary of the Interstate Commerce Commission, do hereby certify that the paper hereto attached is a true and correct copy of schedule filed pursuant to the provisions of the act to regulate commerce with the Interstate Commerce Commission and showing rates for the transportation of bananas and cocoanuts in car-load lots from Port Tampa, Florida, to Chicago, Cincinnati, and other points, and the percentages of said rates received by carriers therein named and their connecting lines, and that it appears from an examination made by me of schedules of rates and charges on file with said Interstate Commerce Commission that the rates shown on the said schedule are now in effect over the lines of said carriers and their connections for the transportation of bananas and cocoanuts in car-load lots between the points aforesaid.

In testimony whereof I have hereunto set my hand and affixed the seal of the Interstate Commerce Commission this 29th day of March, A. D. 1892.

[SEAL.]

EDW. A. MOSELEY,
*Secretary of the Interstate Commerce Commission.*

67 *Special No. B 164.*

*Jacksonville, Tampa & Key West Railway, St. Johns & Lake Eustis Railway, Florida Southern Railway (J. R. Parrott, Rec'r), Indian River Steamboat Co., Jupiter & Lake Worth R'y Freight Department.*

Effective at once.

JACKSONVILLE, FLA., *Dec.* 31*st*, 1890.

*Rates on Bananas & Cocoanuts, Car-load, 20,000 Pounds Minimum.*

| Notes. | From Port Tampa, Fla., to— | Per 100 pounds. | |
|---|---|---|---|
| | | Bananas. | Cocoanuts. |
| 1 | Americus, Ga | 39 | 28 |
| 1 | Anniston, Ala | 42 | 32 |
| 1 | Atlanta, Ga | 39 | 28 |
| 1 | Augusta, Ga | 35 | 28 |
| 1 | Birmingham, Ala | 42 | 32 |
| 1 | Charleston, S. C | 30 | 25 |
| 1 | Chattanooga, Tenn | 42 | 32 |
| 2 | Chicago, Ill | 57 | 48 |
| 1 | Cincinnati, Ohio | 50 | 40 |
| 1 | Columbus, Ky | 39 | 28 |
| 1 | Eufala, Ala | 39 | 28 |
| 1 | Evansville, Ind | 50 | 40 |
| 3 | Indianapolis, Ind | 57 | 45 |
| 1 | Lexington, Ky | 50 | 40 |
| 1 | Louisville, Ky | 50 | 40 |

Received Jan. 6, 1891. Auditor's office. 652.

68 *2nd Sheet—Special No. B 164.*

| Notes. | From Port Tampa, Fla., to— | Per 1 hundred pounds. | |
|---|---|---|---|
| | | Bananas. | Cocoanuts. |
| 1 | Macon, Ga | 35 | 25 |
| 1 | Memphis, Tenn | 45 | 35 |
| 1 | Montgomery, Ala | 39 | 28 |
| 1 | Nashville, Tenn | 45 | 35 |
| 1 | Owensboro, Ky | 50 | 40 |
| 1 | Paducah, Ky | 50 | 40 |
| 1 | Rome, Ga | 42 | 32 |
| 1 | Savannah, Ga | 30 | 25 |
| 1 | St. Louis, Mo | 57 | 45 |

*Notes.*

NOTE 1.—Divide on per cents shown on the attached sheets.

" 2.—Chicago, deduct 12 cents per 100 lbs. from through rate for proportions of lines north Ohio river and divide remainder to E'ville or Cinti. on per cents shown on the attached sheets.

" 3.—Indianapolis, deduct 8 cents per 100 lbs. from through rate for proportion of lines north Ohio river and divide remainder to E'ville or Cinti. on per cents shown on the attached sheets.

Excess 20,000 lbs. will be charged for *pro rata*.

Supersedes No. A 199 Dec. 18, 1890, and B 89, and 10 Jan. 15 | 90.

JAMES COLHOUN, *G. F. A.*

Received Jan. 6, 1891. Auditor's office. 652.

69 *Percentages to be Used in Dividing Rates on Bananas & Cocoanuts from Port Tampa, Fla.*

| To— | Lines. | Miles. | Per cent. |
|---|---|---|---|
| Anniston, Ala. | So. Fla. | 124 | 17.2 |
| Via Jesup. | J. T. | 125 | 17.3 |
| " Albany. | Byd. | 472 | 65.5 |
| | Total.. | 721 | 100 |
| Athens, Ga. | S. F. | 124 | 20.1 |
| Via Albany. | J. T. | 125 | 20.2 |
| " Jesup. | Byd. | 369 | 59.7 |
| | Total.. | 618 | 100 |
| Atlanta, Ga. | S. F. | 124 | 20.6 |
| Via Jesup. | J. T. | 125 | 20.8 |
| " Albany. | Byd. | 352 | 58.6 |
| | Total.. | 601 | 100 |
| Augusta, Ga. | S. F. | 124 | 22.4 |
| Via Sav. & C. R. R. | J. T. | 125 | 22.6 |
| " Sav. & Yem. | Byd. | 304 | 55 |
| | Total.. | 553 | 100 |
| Birmingham, Ala. | S. F. | 124 | 17.9 |
| Via Jesup & Atlanta. | J. T. | 125 | 18 |
| " Albany & Montg. | Byd. | 519 | 64.1 |
| " " Amer. & Cols. | Total.. | 768 | 100 |
| Brunswick, Ga. | S. F. | 124 | 32.2 |
| Via Waycross. | J. T. | 125 | 32.5 |
| | Byd. | 136 | 35.3 |
| | Total.. | 385 | 100 |
| Charleston, S. C. | S. F. | 124 | 23.1 |
| Via Savannah. | J. T. | 125 | 23.3 |
| | Byd. | 287 | 53.6 |
| | Total.. | 536 | 100 |
| Chattanooga, Tenn. | S. F. | 124 | 16.8 |
| Via Jesup. | J. T. | 125 | 16.9 |
| " Albany. | Byd. | 490 | 66.3 |
| | Total.. | 739 | 100 |

Received Jan. 6, 1891. Auditor's office. 652.

2 Sheet—Percentages—Continued.

From Port Tampa, Fla.

| To— | Lines. | Miles. | Per cent. |
|---|---|---|---|
| Jacksonville, Fla. | S. F. | 124 | 50 |
| | J. T. | 125 | 50 |
| | Total.. | 249 | 100 |
| Savannah, Ga. | S. F. | 124 | 29.4 |
| | J. T. | 125 | 29.7 |
| | Byd. | 172 | 40.9 |
| | Total.. | 421 | 100 |
| 70 & 71 Cincinnati, O. | S. F. | 124 | 11.5 |
| Via Albany, Atlanta & Chatta. | J. T. | 125 | 11.6 |
| Via Albany & Montgomery. | Byd. | 826 | 76.9 |
| Via Albany, Columbus & B'ham. | | | |
| Via Bainbridge & Montgomery. | Total.. | 1,075 | 100 |
| Columbus, Ga. | S. F. | 124 | 23.7 |
| Via Albany. | J. T. | 125 | 23.8 |
| | Byd. | 275 | 52.5 |
| | Total.. | 524 | 100 |
| Eufaula, Ala. | S. F. | 124 | 23.8 |
| Via Albany. | J. T. | 125 | 24 |
| | Byd. | 271 | 52.2 |
| | Total.. | 520 | 100 |
| Evansville, Ind. | So. F. | 124 | 11.9 |
| Via Albany & Montgomery. | J. T. | 125 | 12 |
| Via Albany, Atlant. & Nas. See foot-note. | Byd. | 796 | 76.1 |
| Via Bainbridge & Montgomery. See foot-note. | Total.. | 1,045 | 100 |
| Louisville, Ky. | S. F. | 124 | 11.5 |
| Via Albany, Atl., Chatta. & Nash. | J. T. | 125 | 11.6 |
| Via Bainbridge & Montgomery. | Byd. | 826 | 76.9 |
| Via Albany, Atlanta & Burgin. | | | |
| Via Jesup, Chatt. & Burgin. | Total.. | 1,075 | 100 |
| Via Jesup, Chatt. & Nashville. | | | |
| Macon, Ga. | S. F. | 124 | 24.3 |
| Via Jesup. | J. T. | 125 | 24.4 |
| " Albany. | Byd. | 262 | 51.3 |
| | Total.. | 511 | 100 |

Received Jan. 6, 1891. Auditor's office. 652.

3 *Sheet—Percentages*—Continued.

From Port Tampa, Fla.

| To— | Lines. | Miles. | Per cent. |
|---|---|---|---|
| Montgomery, Ala. | S. F. | 124 | 20.7 |
| Via Albany. | J. T. | 125 | 20.8 |
| " Bainbridge. | Byd. | 351 | 58.5 |
| | Total.. | 600 | 100 |
| St. Louis, Mo. | | | |
| Via Jesup & Nash. | | | |
| " " Chatta. & Grand Jct. | S. F. | 124 | 9.6 |
| Via Jesup, Chatta. & Cincinnati. | J. T. | 125 | 9.7 |
| Via Albany, Montgomery & Nashville. | Byd. | 1,037 | 90.7 |
| Via Albany, Atlanta & Nashville. | | | |
| Via Albany, Chattanooga & Cincinnati. | Total.. | 1,286 | 100 |
| Via Bainbridge & Montgomery. | | | |

Evansville, Ind.—Deduct before prorating 3 cents per one hundred pounds for Henderson bridge and add to L. & N. proportion.

JAMES COLHOUN, *G. F. A.*

72 United States Court, 5th Circuit, Northern District of Florida

FLORIDA FRUIT EXCHANGE
*vs.*
THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY and THE OCEAN STEAMSHIP CO. — SAVANNAH. } 85.

*Exhibits in Testimony Taken by Joseph H. Durkee, Master.*

Filed September 17th, 1890.

PHILIP WALTER, *Clerk*,
By JNO. S. DRIGGS, *D'y Clerk.*

Filed in evidence May 2nd, 1892.

JOSEPH H. DURKEE, *Master.*

73 & 74 In the Circuit Court of the United States for the Northern District of Florida, Fifth Circuit.

THE FLORIDA FRUIT EXCHANGE
*vs.*
THE SAVANNAH, FLORIDA AND WESTERN RAILWAY Company and The Ocean Steamship Company of Savannah. } In Chancery.

The above-named complainant having filed a petition in this court to have the above-named defendants restrained by order or decree, injunction or other proper process, mandatory or otherwise, of or

from this court, from further violating or disobeying the order or requirement of the Interstate Commerce Commission of the United States, made in the case before said commission of The Railroad Commission of Florida *vs.* The Savannah, Florida and Western Railway Company *et al.*, decided October 29th, 1891, that the defendants and each of them desist from charging or collecting for the transportation of oranges and lemons any greater sum than an addition of five cents per box to the rates in force next prior to the advance on November 23d, 1890, that said defendants and each of them may be ordered and decreed to pay to petitioner its reasonable costs and counsel fees herein; that petitioner have such further and other relief in the premises, and such further and other orders and decrees be made by this honorable court in the premises to
75 enforce obedience to said order of said commission as the case may require and to the court may seem meet.

It is ordered that said defendants and each of them appear at the court-house of this court, in the city of Jacksonville, in said district, on the twenty-first day of December, A. D. 1891, at 10 o'clock a. m., and then and there file there written answer or their several answers to said petition and every part thereof, and do show cause if any they have why the relief prayed in said petition should not be granted, and to abide by and perform the order or decree of the court in the premises.

It is further ordered that a copy of this order be served on each of said defendants by delivering such copy to any officer, servant or agent of such defendant.

Done December 14th, A. D. 1891.

CHAS. SWAYNE,
*U. S. Judge.*

(Endorsed:) In circuit court of United States, fifth circuit, in and for northern district of Florida. In chancery. The Florida Fruit Exchange *vs.* Savannah, Florida and Western Railway Co. *et al.* Filed this 14th day of December, A. D. 1891. Philip Walter, clerk. Order for defendants to appear and answer, &c.

76 In the Circuit Court of the United States for the Northern District of Florida, Fifth Circuit.

| | |
|---|---|
| THE FLORIDA FRUIT EXCHANGE *vs.* THE SAVANNAH, FLORIDA AND WESTERN RAILWAY Company and The Ocean Steamship Company of Savannah. | In Chancery. |

The above-named complainant having filed a petition in this court to have the above-named defendants restrained by order of decree, injunction or other proper process, mandatory or otherwise, of or from this court, from further violating or disobeying the order or requirement of the Interstate Commerce Commission of the United States made in the case before said commission of The Rail-

road Commission of Florida *vs.* The Savannah, Florida and Western Railway Company *et al.*, decided October 29, 1891, that the defendants, and each of them, desist from charging or collecting for the transportation of oranges and lemons any greater sum than an addition of five cents per box to the rates in force next prior to the advance on November 23, 1890; that said defendants, and each of them, may be ordered and decreed to pay to petitioner its reasonable costs and counsel fees herein; that petitioner have such further and other relief in the premises, and such further and other orders and decrees be made by this honorable court in the
77 premises to enforce obedience to said order of said commission as the case may require and to the court may seem meet.

It is ordered that said defendants, and each of them, appear at the court-house of this court, in the city of Jacksonville, in said district, on the twenty-first day of December, A. D. 1891, at 10 o'clock a. m., and then and there file their written answer, or their several answers, to said petition and every part thereof, and do show cause, if any they have, why the relief prayed in said petition should not be granted, and to abide by and perform the order or decree of the court in the premises.

It is further ordered that a copy of this order be served on each of said defendants by delivering such copy to any officer, servant or agent of such defendant.

Done December 14th, A. D. 1891.

CHAS. SWAYNE,
*U. S. Judge.*

I, Philip Walter, clerk of the U. S. circuit court, fifth circuit, northern district of Florida, do hereby certify that the foregoing is a true and correct copy of the original order from the files and records of my office.

In witness whereof, I have hereunto set my hand and affixed the seal of this court, at the city of Jacksonville, in the district and circuit aforesaid, this 14th day of December, A. D. 1891, and of our Independence the 116th year.

[SEAL.] PHILIP WALTER, *Clerk.*

(Endorsed.)

Received December 14, 1891, executed by showing this original with the seal of the court thereon to J. D. Sinclair, agent for
78 the Savannah, Florida and Western R. R. Company, and leaving with him at the depot of said company in the city of Jacksonville, a true copy the 15th day of December, A. D. 1891, also on same date (Dec. 15) made service on the Ocean Steamship Company of Savannah, Ga., by showing this original, with the seal of the court thereon, and leaving in the hands of J. W. Ferrell, a clerk in the employ of said company, a true copy at their office in the city of Jacksonville, Duval county, Florida.

EDMUND C. WEEKS,
*U. S. Marshal.*

Two services, $4.00.

Florida Fruit Exchange *vs.* Savannah, Florida and Western Railway *et al.* Copy of order served upon defendants. Filed December 16, 1891.

PHILIP WALTER, *Clerk.*

79 In the Circuit Court of the United States, Northern District of Florida, Fifth Circuit.

THE FLORIDA FRUIT EXCHANGE
*vs.*
THE SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY and THE OCEAN STEAMSHIP COMPANY OF SAVANNAH.

This cause came on to be heard on the defendants' application for an extention of time to answer in this case, and upon hearing argument of counsel and — therein and — consideration thereof, it is ordered, directed and decreed that the time for answer and hearing herein be and the same is hereby extended till the 4th day of January, A. D. 1892.

Ordered December 21, '91.

CHAS. SWAYNE,
*U. S. Judge.*

(Endorsed:) United States circuit court, northern district of Florida. The Florida Fruit Exchange *vs.* Savannah, Florida & Western Railway Company and Ocean Steamship Company of Savannah. Order extending time for defendants to answer and refusing interlocutory restraining order. Filed December 21, 1891. Philip Walter, clerk.

80 At a general session of the Interstate Commerce Commission held at its office in the city of Washington on the 22nd day of December, 1891.

Present: Hon. William R. Morrison, acting chairman; Hon. Wheelock G. Veazey, Hon. Martin A. Knapp, commissioners.

THE RAILROAD COMMISSION OF FLORIDA
*vs.*
THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY *et al.*

On reading and filing the petition of the Savannah, Florida & Western Railway Company, the Charleston & Savannah Railway Company, the Northeastern Railroad Company of South Carolina, the Wilmington, Columbia & Augusta Railroad Company, the Wilmington & Weldon Railroad Company, the Petersburg Railroad Company, the Richmond & Petersburg Railroad Company, the Richmond, Fredericksburg & Potomac Railroad Company, the Alexandria & Fredericksburg Railroad Company, the Alexandria & Washington Railway Company, the Baltimore & Potomac Railroad Company, the Philadelphia, Wilmington & Baltimore Railroad Company, the Pennsylvania Railroad Company, and the Ocean Steamship Company of Savannah, verified December 19th,

1891, praying for a rehearing of the above-entitled pro-
81 & 82 ceeding, upon the ground and for the reasons set forth in said petition, and upon due consideration thereof.

Ordered, that such application for a rehearing herein be heard at the office of the commission in the city of Washington on the 19th day of January, 1892, at 11 o'clock a. m.

Copies of any affidavits, documents or other papers to be used by the petitioners on such application, except those contained in the record of this proceeding and the petition filed as aforesaid, must be served on C. M. Cooper, Esq., Jacksonville, Florida, counsel for the complainant, on or before January 9th, 1892, and filed with the commission at least five days before the hearing.

Unless counsel for complainant shall consent to an oral argument, the application will be heard only upon the papers filed by the parties and the written briefs of counsel.

A true copy.

[SEAL.] EDW. A. MOSLEY, *Secretary.*

(Endorsed:) Filed December 26th, 1891. Philip Walter, clerk, by John S. Driggs, deputy clerk.

83 In the Circuit Court of the United States, Fifth Circuit, Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
THE SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY and THE OCEAN STEAMSHIP COMPANY OF SAVANNAH.

The answer of The Savannah, Florida & Western Railway Company to the petition of The Florida Fruit Exchange.

This respondent reserving to itself all right of exception to the petition of petitioner, for answer thereto, says:

1st. It admits the first and second sections of said petition to be true as therein stated.

2nd. It admits that during the season named in the third section of the petition, the defendants established and maintained rates for the transportation of oranges and lemons, as is stated in said petition, and that in the month of November, 1890, said rates were, to New York and Philadelphia by said line, 30 cents per standard box, and to Boston 35 cents, and that each of the defendants received by agreement between them a certain aggregate proportion of said through rates, which proportion is as stated in Exhibit "A," attached to said petition.

3rd. It admits that on or about the date named in the petition, defendants did advance the rates 10 cents per standard box, and that they have been, and are now, on all shipments from said base points to said points of destination, charging, demanding, collecting and receiving said advanced rates.

84 4th. It admits that on or about the date named in the fifth section of the petition, the railroad commission of Florida

filed a complaint with the Interstate Commerce Commission of the United States against defendants and others, and it refers to the said complaint for all of the allegations therein contained and denies that the averment of said complaint recited in the first paragraph of the fifth section of the petition are true.

It admits that defendants answered said complaint, that evidence was taken thereon before said Interstate Commerce Commission and that briefs were filed with the commission by said complainants and defendants, but it denies that the Interstate Commerce Commission as organized and constituted by and under the act to regulate commerce, as amended, rendered a decision and made orders on said complaint while admitting that the so-called orders and decisions appearing in Exhibit "A" to the petition are true copies of their respective originals. It refers to said so-called report, finding, decision and orders for all the contents thereof.

5th. While denying that the rates charged are excessive, this defendant admits that defendants continued to charge the rates on oranges and lemons from said basing points which were put into effect November 23d, 1890.

6th. This defendant admits that petitioner is engaged in the business stated in the seventh section of the petition, and that it is a large shipper of oranges and lemons from and to the points named in the petition, and that it is interested in the rates charged thereon and in any order which might be made by the Interstate Commerce Commission as to said rates and it also admits that petitioner has tendered boxes of oranges as stated in said petition to be carried from and to the places named therein, and that if offered to
85 pay for the transportation thereof 35 cents per box to New York and Philadelphia and 40 cents per box to Boston, and has demanded that such boxes of oranges be carried for said sums, and has made tenders of payment in advance of said sums; and it also admits that it has refused to carry said oranges for the amount tendered, and that it has charged and collected and continues to charge and collect of petitioner the said rates established November 23rd, 1890; but it expressly denies that said last-mentioned rates are unjust, unreasonable, excessive and contrary to law, while admitting that said rates are 5 cents per box higher than the amounts mentioned in the so-called order attached as an exhibit to the petition sought to be enforced by the petitioner in this case.

And this respondent further answering says, that said complaint was filed by the railroad commission of Florida against respondent and others on the 30th of December, A. D. 1890, and that answers were duly filed thereto; that the Honorable Thomas M. Cooley, Honorable Martin A. Knapp, and Honorable Walter M. Bragg, three members of the Interstate Commerce Commission appointed in pursuance of the act of Congress creating said commission and constituting a quorum for the transaction of business, heard said complaint at Jacksonville, Florida, on March 30th and 31st, 1891, and that before the commission and in its presence the witnesses for the complainant and for this respondent and others were examined orally and their testimony stenographically taken and subsequently

reduced to writing; that before any determination was had in said case, the Honorable Thomas M. Cooley resigned from said Interstate Commerce Commission, as a member thereof, and that his resignation took effect on the 4th day of September, A. D. 1891; that the said Honorable Walter M. Bragg departed this life on the
86 21st day of August, A. D. 1891, leaving surviving the Honorable Martin A. Knapp as the only commissioner who heard the evidence taken in said cause, or who was present when the same was taken, and that said so-called decision so rendered therein was dated the 29th day of October, A. D. 1891, and rendered as the report and opinion of the commission; whereas this respondent avers that by reason of the death of the Honorable Walter M. Bragg and the resignation of the Honorable Thomas M. Cooley before the consideration and rendition of said opinion, and there surviving them but one commissioner, viz., the Honorable Martin A. Knapp who heard said case, the said so-called order and decision is not the lawful order and decision of the commission as created by the act of Congress and the amendments thereto, and that in refusing, failing, or neglecting to obey or perform said so-called order, this respondent is not violating any order or requirement of the commission made as a legally constituted commission or in a legal or authorized way, and that said alleged order and decision so made as aforesaid is not binding or of any force so far as this respondent is concerned. Wherefore it prays that said petition may be dismissed.

And this respondent further answering says, that it, with other respondents, on the 22nd day of December, A. D. 1891, filed with the Interstate Commerce Commission its application for a rehearing in said case made by the complaint of the railroad commission of Florida, setting forth its grounds and reasons for said application, and that the same state of facts, as to the personnel of the commission as heretofore set forth in this answer existed at that time; that one of the commissioners, the Honorable Thomas M. Cooley, who heard the testimony in said cause had resigned, and the Honorable Walter M. Bragg had departed this life, and that the only
87 person then a member of the commission who had been present at the hearing was the Honorable Martin A. Knapp; and that on this application for a rehearing a request was made upon the part of the respondent to be orally heard in the presentation of its application for a rehearing, which was denied, although earnestly requested; and that said denial was in violation of the act of Congress creating said commission, which guarantees the right to appear either in person or by attorney.

And this respondent further answering calls the attention of the court here to the fact that the petition filed herein does not disclose every vote and official act of each of the several members of the commission, and respondent prays leave to refer to the records of the Interstate Commerce Commission for information in regard to the votes of the several members of said commission upon the questions submitted to them, and asks here for an order of this court to the secretary or other proper officer of said Interstate Commerce

Commission for the production of such records as shall show the official vote of each and every member of the commission on the hearing of the petition of The Railroad Commission of Florida against The Savannah, Florida & Western Railway Company and others, and for the official vote of each and every member of the commission on the application for a rehearing of respondent.

And this respondent avers that the said alleged order of said Interstate Commerce Commission so alleged to have been made is not lawful, and it is not therefore bound to obey the same; that the said Interstate Commission does not, in any respect, possess the powers of a court, and that its decrees and orders have not the binding force and efficacy of decrees of courts; that it was not designed or intended by the act of Congress creating such commission,
88 as is shown in express terms, to clothe such Interstate Commission with the powers of a court or to give such binding force and effect to its decrees; that such Interstate Commerce Commission has no power other than to investigate and report its findings of fact, and that such findings are not final or an adjudication of the question involved, but still leave the matters at issue between the parties as judicial matters to be investigated and determined by the courts of the land, according to the rules of practice and the laws governing the matters involved.

And this respondent further answering avers that each of the alleged findings of fact by said commission which led to the conclusion that the rates charged by defendant were unreasonable and unjust, was and is erroneous, contrary to the evidence and against the evidence heard by the commission on the complaint of the railroad commission of Florida.

And this respondent avers that the rates in effect prior to November 23rd, 1890, did not afford a just and reasonable compensation for the services rendered; that the rates put into effect on November 23rd, 1890, and which have since been charged are just and reasonable; and it denies each and every allegation in the petition which alleges that the rates now charged are unjust, unreasonable or excessive. And if the said findings, decisions and orders were legal and valid, this defendant denies that this court can do other on the petition filed herein than to investigate the matters therein set forth and make all needful inquiries and take all needful testimony in such way and manner as it shall deem best and as shall enable it to form a just judgment in the premises.

And this respondent further answering avers that the decisions, reports and findings of the Interstate Commission, even when rendered by a majority of the commission who heard the case
89 and in conformity *of* the act, are at best but *prima facie* evidence, and that this court is not confined to a mere re-examination of the case as heard and reported by the commission, but is to hear and determine the said cause anew upon proper pleadings and proofs, not only including the report of the commission, but all such other and further testimony as either party may introduce bearing upon the matters in controversy.

And this respondent respectfully insists upon its right, as it is

advised under the law, to introduce testimony through such channels and in such way *and* this court may select, to establish that the rates put into effect November 23d, 1890, are just and reasonable and not in violation of the act to regulate commerce or the law of the land.

And this respondent further answering respectfully insists that the complainant is not entitled to the relief or any part thereof in the petition demanded, and prays such action herein as is consistent with the law and respondent's right to have its day in court and be heard.

R. G. ERWIN,
JOHN E. HARTRIDGE,
*Sol's for S., F. & W. R'y Co.*

STATE OF FLORIDA,
*County of Duval.*

Before me, a notary public in and for said State and county, personally came R. G. Fleming, who, being first duly sworn, deposes and says that he is the superintendent of the defendant, The Savannah, Florida & Western Railway Company; that he has heard read the foregoing answer and knows the contents thereof, and that the same is true of his own knowledge, save as to those
90–96 matters and things alleged upon information and belief, and as to those matters he believes it to be true.

R. G. FLEMING.

Sworn to and subscribed before me this 7th day of March, A. D. 1892.

AUGUSTUS G. HARTRIDGE,
[SEAL.] *Notary Public, Florida.*

(Endorsed:) U. S. circuit court, northern district of Florida. Florida Fruit Exchange *vs.* Savannah, Florida & Western Railway Company and Ocean S. S. Company of Savannah. Answer of S., F. & W. R'y Co. Filed Mar. 8, 1892. Philip Walter, clerk. R. G. Erwin, John E. Hartridge, solicitors for S., F. & W. R'y Co.

97 In Circuit Court of U. S., 5th Circuit, in and for Northern District of Florida. In Chancery.

FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA AND WESTERN R'Y CO. *et al.*

To John E. Hartridge:

You will please take notice that on the 22d day of March, A. D. 1892, at 10 o'clock a. m., or as soon thereafter as counsel can be heard, we will call up for hearing the above-stated cause before the judge at Jacksonville, Fla., or for such order expediting the cause and fixing hearing thereof as the judge may deem meet.

C. M. COOPER,
*Sol. for Compl'ts.*

Copy notice received and service accepted, this the 17th day of March, A. D. 1892.

JOHN E. HARTRIDGE,
*Sol. for Def't.*

In circuit court of U. S., northern district of Fla. In chancery. Fla. Fruit Exchange *vs.* S., F. and W. R'y Co. *et al.* Notice filed this 22nd day of March, A. D. 1892. Philip Walter, clerk. C. M. Cooper, sol. for compl't.

98 In United States Circuit Court, 5th Circuit, in and for Northern District of Florida. In Chancery.

FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY *et al.*

The above-entitled cause is referred to Joseph H. Durkee, as special master, to take testimony and report the same to the court, with his findings thereon as speedily as possible.

Done, this 23d day of March, 1892.

CHAS. SWAYNE, *Judge.*

(Endorsed:) In circuit court of U. S., 5th circuit, in and for northern district of Florida. In chancery. Fla. Fruit Exchange *vs.* S., F. and W. R. R. Co. Filed March 23, 1892. Philip Walter, clerk. Order appointing special master to take testimony, etc.

99 In the Circuit Court of the United States in and for the Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
THE SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY *et als.*

It is agreed by and between C. M. Cooper, solicitor of record for The Florida Fruit Exchange, and John E. Hartridge, solicitor for The Savannah, Florida & Western Railway Company, that the said defendant The Savannah, Florida & Western Railway Company is authorized and permitted to introduce and file in evidence any or all of the testimony taken on the part of the said defendant of those witnesses examined at Jacksonville, Florida, on March 30th and 31st, 1891, in the case of The Railroad Commission of Florida *vs.* The Savannah, Florida & Western Railway Company *et als.*, before the honorable Commissioners Thomas M. Cooley, Walter L. Bragg and Martin J. Knapp, and that said testimony when so introduced and filed shall stand and be taken for all purposes as if the witnesses had been re-examined in the presence of the master in this case, viz., Joseph H. Durkee, Esq. And the same permission, consent and agreement is entered into and given to the Hon. C. M. Cooper, as solicitor for The Florida Fruit Exchange, to introduce and file in evidence any or all of the testimony of the witnesses examined

before said commissioners on the part of The Railroad Commission of Florida in the case before mentioned, on the 30th and 31st
100 days of March, 1891. Each party reserving all right of objection to any testimony offered for any legal grounds that may exist, other than the fact that the testimony was not taken before the master Joseph H. Durkee, and complainant not waiving any legal effect of the findings, opinion and decision and orders of Interstate Commerce Commission.

March 25, 1892.

JOHN E. HARTRIDGE,
*Solicitor for Savannah, Florida & Western R'y Co.*
C. M. COOPER,
*Sol. for Petitioner.*

(Endorsed:) United States circuit court northern district of Florida. Florida Fruit Exchange *vs.* Sav., Fla. & W. R'y Co. *et al.* Agreement between counsel. Filed. P. Walter, clerk.

101 Interstate Commerce Commission.

I, Edward A. Moseley, secretary of the Interstate Commerce Commission, do hereby certify that it appears from the record of proceedings of said commission that at a general session of the Interstate Commerce Commission held at its office on the 29th day of October, 1891, the following commissioners being present, Hon. William R. Morrison, Hon. Wheelock G. Veazey and Hon. Martin A. Knapp, the report and opinion of the commission in the case of The Railroad Commission of Florida against The Savannah, Florida & Western Railway Company, was read, unanimously approved and ordered filed, and order directed to be entered upon the order book. And that at a general session of the Interstate Commerce Commission, held at its office on the 9th day of February, 1892, the following commissioners being present, Hon. William R. Morison, Hon. Wheelock G. Veazy, Hon. Martin A. Knapp and Hon. James W. McDill, the memorandum of the commission denying the application of defendants for rehearing in the case of The Railroad Commission of Florida against The Savannah, Florida & Western Railway Company and others, was read, unanimously approved and ordered filed, and order directed to be entered upon the record book.

In testimony whereof, I have hereunto set my hand and affixed
[SEAL.] the seal of said commission this 12th day of April, A. D. 1892.

EDW. A. MOSELEY,
*Secretary of the Interstate Commerce Commission.*

(Endorsed:) Filed. Philip Walter, clerk.

102 In Circuit Court United States, 5th Circuit, Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA & WESTERN RAILWAY CO. and THE OCEAN STEAMSHIP CO. OF SAVANNAH.

The following order was entered in the above cause on the 23d of March, 1892:

"The above-entitled cause is referred to Joseph H. Durkee, as special master, to take testimony and report the same to this court with his findings thereon, as speedily as possible.

CHARLES SWAYNE, *Judge.*"

On March 24th, 1892, the following notice was issued:

"Please take notice that I will sit at my office, No. 9 Ely building, corner Forsyth and Laura street, city, on Saturday, March 26th, 1892, at 10 o'clock a. m., to take testimony of the complainant in the above-entitled cause."

Copies of the above notice were sent to Charles M. Cooper, Esq., solicitor for complainant, and John E. Hartridge, Esq., solicitor for defendant.

Pursuant to notice on March 26th, at 10 a. m., hearing was begun in my office.

Present: Messrs. C. M. Cooper, solicitor for complainant, and John E. Hartridge, solicitor for defendant.

Solicitor for complainant offered in evidence the report and findings and orders of the Interstate Commission in case of Railroad Commission of Florida *vs.* Savannah, Florida & Western R'y Co. of Florida *et al.*, attached to the petition in this cause and marked "Exhibit A."

103 Petitioner here rests reserving the right to hereafter introduce testimony as to reasonable counsel's fee for petitioner in this cause. Adjournment was then made until Thursday, March 31st, 1892, at 10 o'clock a. m., at the office aforesaid.

THURSDAY, *March* 31*st.*

Met pursuant to adjournment.
Present as before.

H. E. HUTCHENS appeared as a witness on the part of the defence, who being duly sworn deposes and says:

Examination by Mr. HARTRIDGE:

Q. Please state your name.
A. H. E. Hutchens.
Q. What is your occupation?
A. Assistant master of transportation of the S., F. & W. railroad.
Q. How long have you occupied that position?
A. A little over three years.

Q. Had you been connected with the S., F. & W. railroad before that time?

A. Yes; for 10 or 12 years.

Q. In what capacity?

A. Agent, yardmaster, telegraph operator.

Q. In the movement of freights, Mr. Hutchens, are there two classes of freights or more than one of freight trains?

A. Yes, sir.

Q. What are they denominated?

A. Yes, we have different classes of trains so far as speed goes in freight service.

Q. Is one called the fast freight and the other the ordinary?

A. It is not called as such, but it is known as such.

Q. What is the average speed of what is known as the fast freight?

104 A. The fast freight, I think, averages about 17 and a fraction miles an hour.

Q. What is the average speed of the ordinary movement of freight trains?

A. From 11 to 13 miles.

Q. What class of freight do you carry upon what is known as the fast freight?

A. Perishables.

Q. What do you class as perishables?

A. Oranges, fruits and vegetables.

Q. Do you know anything, Mr. Hutchens, as to the relative rights as between what is known as the fast freight and the ordinary freight?

A. The right of way is invariably given to the train carrying the perishable freights. That is almost a daily order to train-despatchers, to give that train preference.

Q. Are any steps taken from time to speed that train and facilitate its movement?

A. Yes, in a general way and in a special way.

Q. How special?

A. In a special way by giving special orders to train-despatchers. In case of passenger trains being off of time especial orders are given to the train-despatchers giving these perishable trains the benefit of all that time, in other words, giving them the right of track over passenger trains that are delayed, and in a good many instances like this, and in a general way by making especial efforts to secure motive power suitable to that class of business which is specially selected.

Cross-examination by Mr. COOPER:

Q. Is it not a fact that this train, which you call the perishable freight train, is sometimes held to give the right of way to trains of the same class?

105 A. No, sir, unless there is something the matter with the train going north that would prevent it from making its

time. It is an exceptional case that I never call to mind that that train has been side-tracked giving others the right of track.

Q. Now this train which you call perishable freight, is it not a fact that you ship on this train any other kind of freight that is convenient and offers at the time as well as perishables?

A. It is a fact that if we have not a load of perishables and have other class freight offering for shipment it is put on that train.

Q. Have you ever known of hides being carried on this perishable train?

A. Well, I could not say. I could not say that I ever knew of hides, but we would just as soon carry hides as anything else if there was not a full load of perishables. As I said before, we fill up with whatever freight is offered.

Q. Do you remember of cigars being carried?

A. Yes, I have known of cigars.

Redirect examination:

Q. Have you ever known of perishable freight being left in order to take other freights on that train?

A. No, sir; under no circumstances.

Q. Would it be done?

A. No; it would not be allowed.

Q. When you have not a load of oranges can you wait, or is the movement obliged to go on?

A. The movement is obliged to be carried out. At junctions and initial points where the schedule requires a certain stop to be made if we have not a full load and there is another class of freight
106 offering, except lumber, which is a little more dangerous than ordinary freight, they are required to put that dead freight on within the specified time or we will not hold for it.

Q. Then I understand if there is not a load of oranges you would take other freight that is offered but you cannot wait for it?

A. No, sir; we cannot wait.

Q. There is one point I wish to ask. On this through fast freight where are the cars arranged with reference to delivery? Where and how?

A. They are arranged at Savannah; what we call the classification of perishable freight.

Q. What is the arrangement?

A. The arrangement is to drill the train in such a position that all cars for certain stations are drilled together so as to enable the cars for the first point at which freight is to be delivered to be taken off from behind the engine. For instance a train of 25 cars, 5 cars coming off at Wilmington, these 5 cars are next to the engine and are taken off, and the next five are for Richmond and they are taken off in the same manner to make time the principal object.

(Objected to as immaterial, irrelevant. Through railroad is not involved in this proceeding.)

Q. Is it not equally true that on this through freight you carry

also perishable articles such as oranges for the Ocean Steamship Co.?

A. Yes, sir.

Q. Is not the same drilling necessary in order to accommodate that freight?

A. There is a special drilling for the Ocean Steamship freight. They sail on tides and that freight is drilled out and run special to the docks.

Q. Have you any special arrangement for delivery to the Ocean Steamship Co.?

107 A. They are made from time to time. There is telephone communication between the two offices and when our perishable train is within a certain distance of Savannah we can estimate closely when they will be there and how much help will be necessary.

Q. Is it possible to schedule this to accommodate the leaving of the Ocean Steamship Co.?

A. No, sir; we cannot depend on handling that by schedule. We have to handle it special.

Q. Is that the reason that special handling is necessary?

A. We have to give it special handling because we cannot handle it according to schedules. We cannot depend on the sailing hours, as they are different from day to day according as the tide changes.

Q. What is the movement and method by which you take your cars forward to load on the Ocean Steamship Co.'s ships?

A. As I stated a little while ago we make arrangements with the Central Railroad wharf specifying the time that we will be at Central Junction, seven miles from our wharf. We then get the cars together as far as practicable, each ship's cars together, Philadelphia, Boston and New York, and then have to run on special telegraphic orders the seven miles and make delivery to the Central wharf. We have to notify the Central Railroad wharf to make special arrangements and secure labor for the handling of cars.

Q. Do you have to make special arrangements for labor?

A. We have to notify our agent so he will have the special labor in case the ship sails at an unseasonable hour, not during regular work hours.

Q. I will ask if a ship sails at an unseasonable hour if this entails any additional expense?

108 A. It involves an additional expense of overtime and extra time of labor of men engaged in the transfer.

Recross-examination:

Q. You speak of cars being drilled out for delivery to the steamships at Savannah. Is there anything about that except that you take out the cars destined for Savannah and leave them at Savannah, where it is a perishable train going further north? What I mean is you undertake to deliver freight at Savannah and you take off the cars and deliver it at Savannah?

A. We run into Savannah proper and then come out three miles

on the same piece of track. The total mileage is probably nine miles.

Q. That is merely a proceeding to deliver your freight to your connections, the Ocean Steamship Co.?

A. Yes, and to drill it in a position to reach the ships that lay at different docks.

Q. The drilling service, then, is merely incidental to your delivery of your freight to the Ocean Steamship Co.?

A. Yes.

Q. What is the time of leaving Jacksonville of this perishable freight that you speak of?

A. I think it is 8.25 p. m. I won't be positive about it but I think that is the time.

Q. What is the time for arrival in Savannah?

A. 8.35 a. m.

Q. You leave Jacksonville, then, at a fixed time and you reach Savannah at a fixed time; rather that is the time set for the train?

A. We have that time fixed for the train to run but we are not bound to hold back to those figures.

Q. Do you always arrive in Savannah at 8.35?

109 A. No, sir, not always. I suppose in the last week we have arrived ahead of time oftener than we have at 8.35.

Q. Sometimes, then, you arrive a little ahead and sometimes you arrive behind?

A. Yes, sir.

Q. Now that train, then, is run on fixed time. It is not run to make special connections with the steamships which leave on tide at Savannah?

A. It has a fixed time to run but we run it special to make connections with the ocean steamships.

Q. What do you mean by that?

A. I mean we run it ahead of time and make special delivery.

Q. I understood you said awhile ago that sometimes you run behind and sometimes ahead.

A. Yes, that is just what I said. We run ahead of time specially, or extra is the proper word.

Q. Now, Mr. Hutchens, does that train always arrive in time to connect with the boats which go out early in the morning from Savannah?

A. No, sir; it does not always do it, and then early covers a good many hours. What particular hours?

Q. Have you a schedule of the leaving time of the boats at Savannah?

A. For this month I have.

Q. Have you it with you?

A. That is their March sailing from Savannah to New York.

Q. That is the leaving time of the boats?

A. That is the advertised leaving time.

(March schedule sailing time of Ocean Steamship Co. from Savannah offered in evidence by complainant's solicitor. Received, filed and marked "Exhibit B.")

110 Q. Now by this schedule I see that the New York steamer "Tallahassee" leaves at 8 a. m. Mar. 2nd. That is before your schedule time for Savannah, is it not?

A. Yes, a little before.

Q. Did you make the connection with that ship?

A. I could not say. It is hardly probable we made it with the 8 o'clock ship.

Q. I see that yesterday the "City of Birmingham's" time for leaving was 6.30 a. m. Did you make the connection with that ship?

A. It is hardly probable.

Q. I see that the "Gate City" left Savannah for Boston Mar. 17th at 7.30 a. m. Did you make connections with that ship?

A. With the train due at 8.35 that morning I do not think we did.

Q. I see that Thursday, Mar. 31st, the "Gate City" left Savannah at 7.30 a. m. Did you connect with that ship?

A. I do not think we did with the train from Jacksonville.

Q. I see that the ship from Savannah to Philadelphia, the "Dessoug," Mar. 15th, left Savannah at 5 a. m. Did you connect with that ship?

A. No, sir, I don't think we did. Not with the train due there at 8.35 a. m.

Q. Then it is not a fact that you run special to make connections with these ships with any regularity?

A. Well, I think it is a fact that we run special to make connections, but we do not run special to make connections with the ships that sail several hours before we can possibly reach the dock.

Q. Do ships frequently sail several hours before your time for reaching Savannah?

111 A. Well, that shows there that ship sailed at 5 a. m. and the train from Jacksonville not due until 8.35.

Q. That is not peculiar to the month of March? It would happen in any month according to the tide?

A. Yes. There is a connection made the day before.

By Mr. HARTRIDGE:

Q. At what hour?

A. It depends entirely on the train the fruit goes in on.

By Mr. COOPER:

Q. In the March schedule from Savannah to New York, Mar. 5th, I see the "Chattahooche" is set down for 10.30 a. m. Did you make connection with that ship?

A. I think we did; I am satisfied we did, but I don't remember whether we did or not.

Q. I see in the March schedule the "City of Augusta" left Savannah Mar. 21st, at 10.30 a. m. Did you make connections with her?

A. I think we did. I won't be positive.

Q. You are not positive?

A. No, I am not positive, but I am satisfied we made special efforts to make the connection, and made it.

Q. On the perishable train of which you have spoken, do you always carry all the oranges that are offered at Jacksonville?

A. No, sir; we do not carry them all on that train always.

Q. When you speak of overtime and extra labor in Savannah to load the steamships, is it not a fact as to all loading that the steamships load as rapidly as possible to meet the tide and their
112 sailing time at Savannah whether it requires overtime or not? Is not that the general practice with the steamships?

A. I could not tell you about the general practice with the steamships. I was speaking of our freight that we delivered there.

Q. You put it on the ship or on the dock?

A. I think we put it on the dock, the ship puts it in the hold.

Q. Well, as to your practice. If you have freight for the steamer, don't you put it off in time to be loaded aboard of her whether it involves overtime or extra labor or not?

A. We generally manage to handle it within the specified labor hours.

Q. Don't you ever unload outside of general hours other freight besides oranges?

A. I suppose we do.

Q. You stated if other freight was offered and you did not have a full load of oranges, that you took other freight at Jacksonville on the perishable train. Do you wait to find out whether you are going to have a full load of oranges before you accept other freight on that train?

A. Before we drill it on the train?

Q. Before you accept it.

A. No, sir; we accept freight whenever it is offered.

Q. Well, before you load it on the train?

A. Yes, sir, we are in a position to tell what we will have for the train before we put the dead freight in.

Q. How do you know?

A. We can tell by the receiving clerks and notifications from connections as to what we will have.

Q. Is there any special delay in loading these perishables to await consignments of oranges? Do you hold space or do you load
113 the freight as it is offered? Do you hold space on this perishable train for oranges, or do you simply load any oranges which are on hand and any other freight that is on hand and ready to ship?

A. I do not exactly understand the question as it is put. We load the freight in cars, any class of freight that is offered, oranges or hides, and when the time comes to drill the train up we put on the perishable freight, and if that does not fill the train up we put on the hides.

Redirect examination by Mr. HARTRIDGE:

Q. Is it not a fact that when the departures of those ships is not later than 12, or near 12, that by extra running they are made?

A. Yes, it is a fact that we run extra and make connections. When the ship sails along from 10 o'clock we have made it.

Q. Do you abandon your schedule to make it?

A. Yes, we have to annul the schedule and run ahead of the schedule.

Q. Is not the departure of the ships as early as 8 and 9 o'clock wholly due to the tides?

A. Yes, the sailing hours are made in accordance with the tides, to suit the tides.

Q. Is it not a fact that in some months the tide swerves so as to accommodate the connections?

A. The entire month?

Q. No, I do not mean the entire month.

A. Yes.

Q. How will they average month in and month out?

A. They will average from 4 to 8 extra trips during the month.

Q. Is it not a fact that no schedule which might be fixed would at all times enable you to meet the ships because of the tides?

114 A. They could not get them out fast enough.

Q. What do you call "dead freight"?

A. Any class of freight that is not subject to decay or damage. Anything that is not perishable is dead.

Q. Is it not a fact that the one you can accommodate and wait on and the other you are obliged to be expeditious about the loading and unloading?

A. Yes, sir, we are obliged to move the perishable freight. The other can wait and not entail any loss.

Q. In loading a car with live freight, for instance perishables, can you wait for a load?

A. No, sir, we have to load it as it is offered.

Q. You were asked if there were not times when you could not take all the freight offered, and you said yes. Are there not times when you cannot get a full load of freight?

A. Yes, more frequently that way than the other.

Recross:

Q. You said something in your redirect about making extra or special trips. What do you mean by that?

A. Extra or special trips you mean to the dock?

Q. You were asked on what average during the season you could connect with the boats at Savannah, and you said something about extra or special trips. You did not mean by it that you run any other than this train you specified?

A. You mean the ships sailing at 10 o'clock. What I meant was we took that special train off its schedule and gave it additional rights and run it ahead of its schedule so as to make the connection, and sometimes lightened the load of freight that was not intended for the ship and could come on the following train and make the same connection.

115 Q. That, I understand you, is to make the 10 o'clock boat that you would otherwise fall behind?

A. In the neighborhood of 10 o'clock.

Q. You spoke of dead freight waiting. Is it not a fact that you have got to keep all the freight moving to keep the depot and yards clear?

A. It is a fact, yes, sir. I said it could wait over and not be damaged.

Q. In point of the fact in Jacksonville is there any one class of freight that waits over more than another?

A. In point of the fact I suppose dead freight lays over at Jacksonville every night, or nearly every night.

Q. Well, don't oranges lay over?

A. Not that I know of. Not if they are received in time to be forwarded. In exceptional cases as I have stated we have failed to move everything that was offered.

Q. The only difference then in your shipments from Jacksonville of oranges and other freight, is that if the oranges are at hand you give them the preference on this perishable train. That is about the substance, is it not?

A. And give the train the preference over other trains.

Mr. A. A. AVAILHE, appeared as a witness on the part of the defense, who, being duly sworn, deposes and says:

Direct examination by Mr. HARTRIDGE:

Q. Please state your present occupation.

A. Assistant superintendent S., F. & W. railroad.

Q. How long have you occupied that position?

A. I think about 4 years.

Q. How long have you been connected with the S., F. & W. Railroad Company?

116 A. 19 years.

Q. Do you know anything of the movement of what is called the fast freight?

A. I only know that our instructions from the transportation department are to give precedent to that train over all other trains for Savannah, to endeavor at all times to make connections with the steamers and with the all-rail movement. We have impressed upon them the importance of a prompt movement of all perishables from Florida.

Q. Is it not a fact that you would move a car that was only partially loaded with oranges as quickly for the ocean steamship connection as for the all-rail route?

A. Yes, sir. The only difference is that the all-rail route has a definite time for leaving Savannah, about 2 o'clock every day, while the ocean steamships vary with the tides.

Q. Could any schedule be made by which all ships of the Ocean Steamship Co. could be met?

A. I understand you mean if we could make a schedule that would connect with the ship every day, a printed schedule. I reply, no, sir, it is impracticable.

Q. Mr. Hutchens testified that the speed of that train was about

17 miles an hour, for the fast freight, 17 miles and a fraction. That movement is how much over the ordinary movement?

A. The ordinary movements of freights are between 11 and 13 miles an hour. The fruit train runs about 17 miles and a fraction.

Q. Is there a difference in expense in making the fast movement over the ordinary movement?

A. There is a difference of expense in this way that it requires more fuel to make steam; it requires a better set of men, you have got to select your men; it requires more handling, you have
117 got to assort your fruit; you have got to drill your cars for the rail route on one hand and for the steamer route on the other and it requires especial service between Savannah and the Central wharf to connect with the steamers when the regular schedule does not fit in.

Q. Is there a difference in the cost of maintaining the equipment?

A. There certainly is. In a slow-freight service the wear and tear is much less on the equipment than in a fast service.

Q. Well how about the track. Is there any difference there?

A. The faster a train is run over the track the more wear and tear there is. The pounding is more severe on a fast schedule. It is the same as if you take a hammer and strike a blow. On a fast schedule the blow comes more rapidly and tends to flatten the rail. On a slow schedule it would not do it so quick.

Q. On the fast schedule do you haul as many cars?

A. No sir, we cannot.

Q. About what is the difference in the make-up of freights?

A. On the ordinary trains we have taken into Savannah 45 cars. We cannot take in over 32 cars on the fast schedule. 32 I think is the limit from Jesup to Savannah and 30 cars from Jacksonville to Waycross.

Q. Could you make the schedule if you took more?

A. No sir.

Q. Then I understand in order to get this speed you must haul fewer cars?

A. Yes sir.

Q. What is the tonnage of the ordinary freight the cars haul?

A. A car that is loaded to its full capacity, I think the
118 average car is about 40,000 pounds. We have now 30-ton cars that we have recently put in service.

Q. How many boxes are there loaded in a car of oranges?

A. I think the average is about 300. I understand that in some cases they load as high as 400. Even 400 boxes will not give the capacity of a car.

Q. What is the weight of a standard box?

A. I think 80 pounds, I am not sure.

Q. Do you not run a second section of that fast freight when the movement warrants it?

A. We have run it when we had ample notice to get the power down there to get it out, but it is impossible to get the power down in a few hours' notice. When a case comes up where there are more

perishables than the two trains can take out at night it goes out the next morning early.

Q. Then when you have notice you run a second section?

A. If they will give us sufficient notice, we can always run a second section.

Q. Have you not run it as a matter of fact?

A. I am not prepared to say. Mr. Hutchens, I believe, would tell you. We have from Waycross I know.

Q. Is it a fact that you are always accommodated with a full load of oranges on that fast freight?

A. No, sir, not always.

Q. When the load is short can you wait until it is furnished you, or do you have it moved?

A. We generally hold about 30 minutes for connections and that is all. Then we go with what we have got.

Q. Now in dead freights, are there not a class of dead freights that wait at times?

A. Yes.

Q. For instance what?

119 A. Phosphate rock. I have known it to be in the yards here for a week.

Q. Is the usual load in tonnage of what you would call dead freight greater than the average load of oranges in weight, tonnage?

A. You can haul more dead freight. That depends on the kind of freight it is. Of phosphate rock you can haul your full capacity. Oranges I do not think you can. Iron you can haul the full capacity.

Q. Could you not haul your full capacity in green hides?

A. I am not prepared to say that. I do not know what the weight of a bundle of hides is. I imagine we could not do it though.

Q. As a general thing, can't you come nearer hauling your full capacity in dead freight than in oranges or perishables?

A. That depends entirely on the class of freights. There are some dead freights that we cannot haul our capacity.

Q. What is the average?

A. Average what?

Q. Of dead-freight tonnage carried.

A. I could not say.

Q. On the arrival of this freight for connection with the Ocean Steamship Co. is it always accommodated at once for unloading?

A. On arrival at the Ocean Steamship Co. at Savannah, as far as I know, they are.

Q. For instance, if the ordinary freight arrives with what is denominated dead freight, and the fast freight arrives with perishables, will one wait and the other unload?

A. The perishables are always hauled first.

120 (Objected to because it has not been shown that such a thing ever happened.)

Q. Is it not a matter of actual fact that the perishables are always given preference in unloading?

A. Yes.

Q. Is it not a matter of fact that they are given the preference in moving and unloading?

A. Yes.

Q. I will ask you whether there is any additional expense attached to giving the precedent to vegetables, and how?

A. Well, it requires a larger force to handle the perishables properly, and if the ship sails at night or after hours there is extra labor required. Then the assorting of the cars in the yards requires extra labor; the assorting of fruit at junctions requires extra labor that would not be required for merchandise freight.

Q. Is there an additional expense in the way of wages by reason of side-tracking ordinaries to make way for the fast freight?

A. Yes, sir. We pay our engineers mileage and we pay them 35 cents an hour for any delay, and when we side-track the regular freight train waiting on a perishable train, every 30 minutes or fraction thereof that the engine is delayed the engineer is paid at the rate of 35 cents an hour.

Cross-examination:

Q. You have spoken about this schedule of the perishable freight. Do you publish or make any contract with shippers for any particular schedule?

A. We never make any contract with shippers at all. That is a matter of traffic.

Q. When I spoke of you I meant the S., F. & W. Co.

121 A. I could not tell that.

Q. You don't know whether the company makes any contracts with shippers for any particular time?

A. I do not.

Q. Is there any schedule published of this perishable-fruit train?

A. For the use of employees only.

Q. You don't, then, publish to the public any schedule of time of this train?

A. No, sir.

Q. When you speak of the train leaving after the expiration of 30 minutes, although it may not have received from its connections a full load of oranges, is not that simply that the train goes on within the time fixed by the S. F. & W. Co. for the guidance of its employees, in which they have to run the train between here and Savannah?

A. It is fixed for that reason.

Q. You stated that you could not make any schedule that would connect daily with the steamers at Savannah. Could you not run special freight trains that would connect closely with these steamers?

A. It would entail an immense expense. We would have to have

an extra train running on these days and run the regular train also for the all-rail connections, and there would be no necessity of running two trains when one would do the business.

Q. In point of fact, then, you do not run any special train to connect with the Ocean Steamship boats? but you simply run a regular fast freight train to connect as near as may be with the Ocean Steamship steamers and also connect with the rail routes north, which take oranges and any other freights that may be offered when the oranges do not fill up?

A. Yes, and we run special at times to make the steam-
122 ships. We abandon the schedule and give the fast freight absolute right of track for them to make time and connections.

Q. In point of fact, that train is a connection with the Atlantic Coast Despatch all rail?

A. And Ocean Steamships.

Q. How is that train put down in your schedule?

A. 208 A. C. D. As I stated the schedule is for employees only. Instructions are given to all agents to give preference to A. C. D. movement and Ocean Steamship.

Q. When you speak of handling the cars at junctions, as far as the oranges shipped — line of S. F. & W. and Ocean Steamship Co. are concerned, the only junctional handling is in taking out the cars for the steamships and taking them down to the dock at Savannah?

A. There is a junction at La Villa, at Callahan, at Live Oak, at Gainesville where the oranges have to be assorted in the care of the Atlantic Coast line and for steamship. Steamship in one car, New York in another, Philadelphia in another, Baltimore in another, etc.

Q. I do not think you quite understand my question. You mentioned junctional handling. As I understand, oranges shipped for Savannah are handled at the initial or base point in Florida. They are not handled at any other point until they reach Savannah junction?

A. When they reach Savannah proper then we assort the cars.

Q. Now that assorting of cars is for the purpose of making up the train for the Atlantic Coast Despatch line going north by rail?

A. And ocean steamships, and it must be borne in mind that the ocean steamships are at different docks. The Philadelphia dock is entirely separate from the New York dock; the Baltimore dock is entirely separate from both of these docks and we have got
123 to get these cars out and haul them to the dock to which they are to go the same as the coast-line business.

Q. Then this handling of cars at Savannah is simply the delivery to each steamship dock of the cars intended for it?

A. Yes, sir.

Q. Don't you do that by all freights to go to each ship?

A. No, sir.

Q. How do you ship other freights?

A. Send them around just as they come. Our object in handling perishables like that is to expedite the movement and get them together so there will be no delay in drilling them and placing them alongside the ship.

Q. You spoke of difference in expense, among other things that you had to have better men on this perishable train. Do you pay any more wages to the men on that train than to men on other freight trains?

A. We do.

Q. What does the difference in wages consist in?

A. We give first-class men that train. First-class men are paid $100 a month, second class $90, third class $80.

Q. You mean engineers?

A. No, sir. Conductors.

Q. Then you are speaking of the difference in the conductors.

A. Yes.

Q. On ordinary freights you pay how much to the conductor?

A. We can put a third-class man, or a fourth or fifth class man on an ordinary freight train, but we must select our best men for the fast freight.

124 Q. What difference is there between the wages of your conductors on this fast freight and the other freight conductors on your road in point of fact?

A. I was going to tell you that we had such a variety of classes I can hardly tell.

Q. What is the lowest that you pay your freight conductors?

A. $60 I think is the fifth-class rate.

Q. And from that you pay them up to what?

A. $100.

Q. $100 is the maximum?

A. Yes.

Q. You pay $100 on any train besides this fast perishable?

A. Yes, sir.

Q. Are all the conductors that run the fast perishable train paid $100?

A. I could not say.

Q. Well what other expense is there in this train service?

A. In what respect, sir?

Q. You stated it was more expense to run that train and I was trying to get at it.

A. I say it is more expensive to run a fast freight train than it is a slow one. The wear and tear in machinery.

Q. The difference in expense in the crew then is the difference in wages of the conductor whom you pay $100?

A. Not necessarily. There might be a difference when we had a $90 or an $80 man.

Q. Now you spoke of their being more expense for fuel. Can you give any figures for that?

A. I could not.

Q. You do not know what the expense amounts to?

A. I only know from practical experience that it requires more

fuel for a fast freight train than a slow train of the same number of cars.

125 Q. Can you give any estimate as to what the increased expenses or damage to the S., F. & W. Co. of the difference between the 11 or 13 mile and the 17-mile rate?

A. I could not give the figures.

Q. How many cars are hauled generally in an ordinary freight train from Florida base points to Savannah?

A. It depends entirely on the engine. If we have a light engine we put on a less number of cars. If we have a heavy engine we put on 36 or 37 cars on this freight train.

Q. With a heavy engine you put on 37 cars?

A. From 35 to 37.

Q. Ordinary freight?

A. Yes.

Q. With a lighter engine you put on fewer?

A. Yes.

Q. Then there is no standard as to the number of cars hauled in an ordinary freight train?

A. It depends on the engine. On the fruit trains we have heavier engine, the heaviest of all.

Q. Do you always make the schedule time to Savannah with this perishable freight?

A. No, sir.

Q. You stated that you had known phosphate rock to await shipment on your line for some considerable time. Was not that simply because you did not have the rolling stock at hand to carry it?

A. If I did not state it my intention was to state that I have known phosphate rock to remain in the yards after it was loaded in cars. I should have stated it in that way.

Q. What was the reason of that?

A. Because we had to give preference to other freight.

126 Q. It remained there then because you did not have the means at hand to remove it?

A. Yes, sir.

Q. Now you spoke of extra expense by reason of the regular freight trains giving way to or waiting on this perishable freight. Does that ever happen in point of fact.

A. Yes, sir, repeatedly.

Q. Well when that happens is it not simply because one of your trains is off schedule time?

A. Not necessarily.

Q. What is the occasion then?

A. The occasion is for instance we have an early shipment to make and we want to give that train right of track. We may give them a meeting point or we may not give them a meeting point. They will go off their schedule and this other train will have right of track over it.

Q. That occurs when the other train has been delayed?

A. Not necessarily. It may occur when the train north bound has been delayed.

Q. When there has been a delay to one or other of the trains?

A. It may or may not. We may want to help the other train north bound. We then hold the other train at some point on side frack until the train arrives north bound to facilitate the movement to the perishable train.

Q. When you hold a train in that way there is no additional expense, is there? What additional expense is there? There is no additional mileage.

A. But we pay at the rate of 35 cents for every hour or part thereof.

Q. Pay who?

A. The engineer.

127 Q. Then the expense would only be 35 cents per half hour for the engineer?

A. Yes, sir.

Redirect examination:

Q. All the time they are side-tracked are they not consuming fuel?

A. Yes, sir.

Q. Then that would be an additional item?

A. Yes, sir.

Q. I will ask if any train, passenger or other, always make schedule time?

A. No train on any road does.

Q. You stated in regard to loading cars of phosphate, they sometimes remained in the yard when you did not have the means at hand to move them. Is it a fact with perishables you are obliged to have the means at hand?

A. Yes, we are obliged to move them.

Q. You are obliged to foresee to that extent that you must have the power to move them?

A. As far as is in our power to do so.

Recross-examination:

Q. Do you always have the means at hand to move perishables at once?

A. When we get sufficient notice we do.

Redirect examination:

Q. Will you please state in regard to any cars being built of increased capacity.

A. We are now building and have completed the majority

128 of 500 cars for the fruit business of 60,000 pounds capacity. 125 of them are equipped with the Westinghouse air brake and are entirely equipped with the Janney automatic coupler.

Q. How much more expensive is that than the ordinary freight car?

A. About $200 or $250 per car.

Recross-examination:

Q. Have any of these improved cars in fact been used yet in the transportation of oranges?

A. Yes.

Q. How many?

A. I could not say.

Q. How long is it since you have gotten any of them?

A. I think about the latter part of January they started to come in.

Q. What is the capacity of the majority of the cars in which you ship oranges?

A. 40,000 pounds, 20 tons.

Q. Well, when you speak of these cars equipped with air brakes and improved couplers, is it not a fact that the railroads are making these improvements in their rolling stock generally now?

A. They are for various reasons. For fast service and for safety.

Q. Is not that improvement in air brakes and couplers simply a part of the general improvement being made by the S., F. & W. R'y Co. in the character of its rolling stock?

A. My idea of the object of that is that it gives fast service.

129 Q. That was not the question. Is not the S., F. & W. where it has new cars built having those improvements put on them generally?

A. Yes, it is a fact.

Q. Is it not a fact that all the first-class railroads in the United States where they are getting new rolling stock having these improvements put on?

A. I could not answer for all of them.

Q. You know of any other besides the S., F. & W.?

A. Yes.

Q. What others?

A. The Coast line, Pennsylvania road, East Tennessee and Central.

Q. These improvements which cost $250 a car then are in the nature of general improvements in modern appliances which are being generally adopted by first-class roads?

A. Yes.

Q. These cars that you speak of that are being built, cannot they be used for the transportation of other freight?

A. Yes, sir. These cars that are being built can be used for the transportation of any freight, but a merchandise car cannot be used for the transportation of fruit.

Q. Don't you sometimes use merchandise cars for fruit?

A. Sometimes we are compelled to use them when we have no other, but we never use them when we have a ventilator car on hand.

Q. When you speak of a ventilated car, what does the ventilation consist of? Wire gratings in the sides and ends of car?

A. Not necessarily wire. Slatted doors and ventilators on the sides and ends of car.

Q. What is the additional cost of a car that is ventilated? Any at all?

130 A. Yes, fully $50 a car.

Q. How do you know that?

A. Because I have built them.

Q. In point of fact does not the S., F. & W. use these cars in bringing return freight from Savannah or transporting any freight that may offer when they have not a full load of oranges?

A. They use them for anything.

Redirect examination:

Q. Is not a large proportion of the traffic of the S., F. & W. and those lines which you mentioned as having these improved cars, perishables?

A. Yes, sir.

Q. I don't mean to confine myself simply to oranges, but vegetables?

A. Yes, perishables, consisting of oranges, vegetables and melons.

Q. Is not that the same of these roads you speak of as having these improved cars?

A. Yes.

Recross-examination:

Q. These cars that are being built that you speak of you state are for perishable traffic including fruits, vegetables and oranges? Are all of these cars intended for use in the shipment of oranges?

A. They were built for perishable business.

Q. This perishable business that you speak of consists of business originating with Georgia as well as Florida?

A. In Georgia only a limited amount compared with Florida.

131 Q. These 500 cars are not to be devoted exclusively to the shipment of oranges?

A. No, sir.

Q. Nor for exclusive use in Florida?

A. No, or we would have to lay them up in summer until the orange season started again.

Q. You haul a good many vegetables and melons from Georgia?

A. Very few vegetables.

Q. A good many melons?

A. Yes, six weeks in the year.

Q. These cars, then, during the melon season are intended for the transportation of the Georgia melon crop?

A. And Florida, yes, sir.

Q. Also the vegetable shipments from Florida?

A. Yes, sir.

Q. How many boxes of oranges in a season, you may take this season or you may take last season if you don't know as to this—how many boxes of oranges in the season are transported to northeastern cities by the S. F. & W. road and Ocean Steamship line?

A. I could not tell.
Q. Have you any idea?
A. No. I could tell if I was in my office, but I could not here.

Mr. WILBUR McCOY appeared as a witness on the part of the defendant, and being duly sworn deposes and says:

Direct examination:

Q. What is your occupation?
A. I am auditor and general freight and passenger agent of the South Florida road.
Q. How long have you been connected with the road?
132 A. Ten years.
Q. How long have you lived in that part of the country?
A. For the same length of time.
Q. Have you had any connection with the transportation of oranges?
A. Yes, the South Fla. handles a great many.
Q. Does the time of packing and delivery have any relationship to schedules made for the movement of oranges?
A. Naturally so. So far as our road is concerned we aim to have our schedule leave the terminal in the evening to take all the oranges that have been packed and ready for shipment during the day.

(Objected to any testimony as to what the South Fla. road does. It is not a party to this suit and has not any bearing on the lines involved.)

Q. Would it be possible, in your experience in railroad business, to make a schedule so as to make connections with the Ocean Steamship Co.?
A. In a physical way it would, but it would be impossible to make a schedule of that kind, in my judgment, that would benefit the grower or shipper.
Q. Do you know anything in regard to the shipment of early fruits? Also the conditions under which they are shipped?
A. The shipment commences as a rule about the latter part of September and are shipped perfectly green. There may be some localities where the oranges color a little earlier and there may be some tinge of color, but I have seen a great many packed and shipped that were perfectly green.
Q. What tendency has those shipments?
A. The fruit of course is not in a mature condition and not
133 fit to eat. I should say that it had a tendency not only to depress prices but to give a very poor opinion of Florida fruit and it should never be done.
Q. Does the fruit in some localities mature earlier and faster than in others?
A. Yes; there are some particularly favored localities in that respect.
Q. Or even in neighborhoods?

A. In neighborhoods; yes, sir.

Q. By reason of that in your experience, do you know if that induces shippers or growers of fruit not so matured to ship green fruit by reason of the shipments of others?

A. Well, the condition of the fruit market North governs that. If there is a short fruit crop North in apples, grapes, etc., there is more green fruit shipped as a rule than otherwise.

Q. What effect, if any, would a large fruit crop North have upon the orange crop of Florida?

A. It would have a depressing effect.

Q. What fruits are usually put into the markets North during the orange season?

A. Well, the ordinary crop of peaches, pears, etc., matures up there when there is a good crop about the time they commence shipping oranges from this country.

Q. Do you know anything as regards to whether a return freight is gotten for the orange cars that are shipped?

A. Not always; no, sir.

(Objected to on the ground that Mr. McCoy is not shown to have any connection with the S. F. & W. or of having any means of knowing what these freights are.)

Q. Are you not a gathering road for base points?

A. Yes, sir.

Q. Does the S. F. & W. and other roads send down cars to you during the fruit season to load?

134 A. We have a great many empty cars come.

Q. Do these cars come empty or loaded as a rule?

A. Both, but we have had calls for a great number of empty cars.

Q. I will ask from your experience, what are the causes of the depression in the prices of oranges?

A. It is caused in a great many ways. There are so many it would be hard to particularize. The condition of the fruit, the condition of the country generally, the fruit crops North all have their influence and the number of boxes of course that are put into certain markets. There are many things.

Q. Do you know anything about the manner in which California fruit is shipped?

A. Nothing except as a rule they have their shipments made in special refrigerator cars.

Q. Do you know whether there is any charge extra for the shipment of fruit in these refrigerator cars?

(Objected to on the ground that the witness is not shown to have any knowledge of California shipments.)

Q. Have you had any of these refrigerator cars down here?

A. Yes.

Q. And used?

A. Yes.

Q. At what time?

A. They have been used all during the season but not always on the same basis however.

Q. Was any extra charge made for their use?

A. Not at the beginning of the season; in the latter part, yes, sir.

Q. What was the reason of the difference?

A. A good many of the cars were the C. F. T. Co. cars which are used largely in the California business. I suppose on ac-
135 count of the failure of the crop they put them in on the same basis as other cars so they could earn mileage instead of lying still.

Q. Did they let you have them all the time or up to a certain period?

A. They have never let us have them free before this year. I am not sure, but I think the early part of March there was an extra charge paid them.

Q. Have you ever seen any of the California fruit?

A. Yes, sir.

Q. And the Mediterranean fruit?

A. Yes.

Q. How does it compare in point of weight and lusciousness with the Florida fruit?

A. That I am hardly competent to say any more than the average weight of the Mediterranean box as named for shipment is 60 pounds while ours is 80.

Q. Do you know whether the one will stand shipment better than the other, and if so, which?

A. That I am not competent to say only from hearsay.

Cross-examination:

Q. When you spoke of receiving cars from Savannah, some loaded and some empty, at what points did you refer to? Sanford?

A. I did not speak of their coming from Savannah, but they come from our connections. We always go to the S., F. & W. for them.

Q. The point of receipt is Sanford?

A. Yes, we receive them at Sanford.

Q. You do not know then how many of these cars leave Savannah loaded or unloaded?

A. No, sir.

136 Q. Don't some of these cars that come to you at Sanford come by way of Jacksonville?

A. They all come by way of Jacksonville to come to Sanford. I say all for I presume there are very few that come by any other route.

Q. Do you know whether or not there is a great amount of freight shipment from Savannah to Jacksonville?

A. I have not the figures, no.

Q. When you speak of receiving empty cars at Sanford you have no means of knowing how many of these cars come from Savannah to Jacksonville loaded and were unloaded at Jacksonville?

A. No, sir.

Q. These California refrigerator cars that you spoke of, which, I believe, you stated in the first part of the season were not charged for extra and later on were. Was not the fact about that that in the first part of the season when no refrigerator was used and it happened to be convenient for the roads to load in these cars they used them as ordinary orange cars without extra charge and when ice was used then they charged extra?

A. No, sir, as I understand there was no extra charge except for the ice which would be charged for in any other refrigerator car. My understanding was that the cars were put in here simply because they had no other use for them.

Q. And when they were used without any refrigeration or icing then there was no extra charge?

A. Yes, but when they were iced there was no extra charge but for the ice.

Q. And later in the season they declined to let them be used at all unless — was an extra charge?

A. Yes, that extra charge if I remember rightly included the ice as well.

137 Q. In speaking of the Mediterranean oranges weighing 60 pounds per box while the standard Florida box weighs 80. Do you know what the size of these Mediterranean boxes are?

A. I could not tell you.

Q. You do not know whether they are the same size as the standard Florida box?

A. I think they are about the same size.

Q. You don't know?

A. No, sir.

Mr. A. A. AVEILHE recalled.

Direct examination:

Q. Do the freight cars always get a return shipment on the S. F. & W.?

A. No, sir.

Q. Is it a fact or not that you haul empties down to accommodate this business.

A. Yes.

Q. To what extent and from what points?

A. I cannot say to what extent. The majority of the cars coming South come down empty, and we receive them from Bainbridge, from Albany, Waycross and Savannah.

Cross-examination:

Q. When you speak about bringing down empty cars from all of these points other than Savannah, those are not cars returning from carrying oranges for shipment by the line of the S. F. & W. and Ocean Steamship Co.?

A. Other than Savannah?

138 Q. Yes.

A. Yes, sir.

Q. I do not quite understand that.

A. It is very simple. The Central railroad controls the Ocean Steamship. They deliver us cars at Albany and Waycross, and these cars are used by either the Ocean Steamship at Savannah or by the Central railroad, Waycross E. W. and Albany.

Q. You are speaking of cars you used in the beginning of the season for the orange traffic?

A. Yes, sir.

Q. The question was the return of cars in which oranges had been shipped northward. That is what I am trying to get at.

A. I hardly understand.

Q. The question is whether the cars in which oranges were shipped to Savannah return empty, and you instanced cars which had nothing to do with that return. Do you know what proportion of cars by which oranges are shipped to Savannah by the line of the Ocean Steamship Co. return with freight or return empty?

A. No, sir.

Mr. T. F. HUGGINS appeared as a witness on the part of the defendant, who, being duly sworn, deposes and says:

Direct examination:

Q. What is your business?

A. Orange-packer.

Q. At what point?

A. Sanford.

Q. How long have you been engaged in the business?

139 A. In the orange business about eight years.

Q. Do you know whether or not at times in the early shipment of oranges any artificial means are used to color them?

A. Yes, sir.

Q. In what way is it done?

A. Well, there are various ways. There is one way of doing it by artificial heat and another by sulphur.

Q. Have you known of both ways being used?

A. Yes, sir.

Q. Does it benefit the orange, and if so how?

A. It is a rather ticklish business for any one that does not know it. You have to learn it. It is a help to early fruit to color it, but the fruit must be in certain conditions to apply that remedy. If the fruit is immature there is almost a certainty that the fruit will go rotten, but if the fruit is matured it can be brought to a very handsome color.

Q. Does it in any way add to the sweetness of the orange?

A. No, sir.

(Objected to all these questions as having no bearing on the question of proper charge for transportation. Moved that they be stricken out as immaterial and irrelevant.)

Q. Do you consider from your experience the orange to be a perishable fruit?

A. Very.

Q. For what reasons?

A. Well, there are many reasons. The fruit may possibly be picked in an unseasonable time, the weather may be against it or the manner in which it is handled.

Q. What is the most desirable element in the shipment of oranges and the movement?

140 A. The most desirable thing is prompt shipment, prompt handling, time, speed.

Q. Then speed is a very desirable element?

A. Yes, sir.

Q. Do you know whether or not a short delay will make a difference in the value on the delivery of the fruit?

A. At times it might. There are *are* certain months in the year when fruit will not carry for any considerable length of time.

Q. Have climatic influences anything to do with its capacity for keeping in shipping?

A. It has; yes, sir.

Q. In what way?

A. Such as fogs, dampness, rainy weather.

Q. What influence has that?

A. A tendency to decay it.

Q. Have you ever had any experience with the Mediterranean or California fruit?

A. I have in California fruits, but never with the Mediterranean fruits.

Q. I mean oranges. Have you had experience with California oranges?

A. No, sir.

Q. What influence or difference is there to shippers and growers in a movement to New York in five days as there is now against an ordinary movement?

A. It is quite superior.

Q. Well, what would be the difference in result and effect?

A. The fruit would go better.

Q. As to the condition of its arrival.

A. It would go better. The better the time the better the chances are for the fruit to arrive in good condition.

141 Q. Is it not a fact that the longer the orange is kept the greater its appearance is injured?

A. Well, there are times when oranges can be kept a great deal longer, certain parts of the year, as at the present time the orange will hold up and will carry and stand after leaving here in the markets probably a couple of months because the fruit is dried and fully cured right on the tree naturally.

Q. What is the effect upon the market of the shipment of green fruit in the early season?

A. After a certain amount it is disastrous. A little of it will go a great ways.

Q. Disastrous in what way?

A. To the shipper in the matter of oversupplying the wants of the people with green and immature fruit.

Q. Does it not hurt the general market?

A. Yes, sir.

Cross-examination:

Q. When you speak of the orange as being very perishable how does it compare with other fruits in that respect? For instance say strawberries?

A. There is no comparison. The strawberry is extra-hazardous fruit for shipment.

Q. You mean the orange is not nearly so perishable?

A. No, sir.

Q. How do they compare with ripe peaches?

A. Well, ripe peaches are the most hazardous thing perhaps that can be taken in the fruit line that I know of.

Q. Oranges then are not so perishable as peaches for shipment?

A. No, sir.

142 Q. How do oranges compare with tomatoes for shipment?

A. They do not compare.

Q. Tomatoes are much more perishable?

A. Yes, excepting they are shipped on ice.

Q. Oranges then do not rank with the most perishable classes of fruits or vegetables do they?

A. Well, of course, the comparisons are the condition of the weather in which the fruit is shipped.

Q. Oranges are not ranked in the most perishable class of fruits or vegetables?

A. No, sir.

Q. Have you ever shipped any oranges from Florida to north-eastern cities?

A. Yes, sir, quite largely.

Q. In point of fact is the time made in delivering your fruit always within five days?

A. No sir, it varies anywhere from five to eight days.

Q. That is speaking generally?

A. Well I don't know. Sometimes they go through promptly in five days, and sometimes in seven and sometimes eight but these are exceptional cases.

Q. Have you ever known a shipment to take more than eight days?

A. Not in my own shipping I have not.

Q. You say not your own shipping. Have you any knowledge at all of shipments taking more than eight days?

A. I have heard of such instances.

Q. You spoke of the effect on the market of the shipment of green fruit. What are the causes that lead people to ship fruit green?

A. Well at that time of year there is a crop of fruits of all
143 kinds on the markets and there is a small trade that would consume some of these green oranges if they were put up there and colored and ripened.

Q. As to the orange-growers in Florida. Don't people run a good deal of risk during the whole season of losing their oranges by frosts when they leave them on the trees?

A. I don't quite understand that.

Q. I say don't the orange-growers throughout the whole season run a good deal of risk if they leave their oranges on the trees of having them frosted?

A. Yes, sir, that has been the way for the past six years.

Q. Is not that one motive then that makes people pack early, so as to avoid that risk?

A. In the northern portion of the State it is more than in the southern section.

Redirect examination:

Q. How about picking in September and October. Does the fear of frosts have anything to do with that?

A. No, sir.

Q. Have you ever shipped any strawberries?

A. No, sir.

Q. How do apples compare in point of shipment with oranges and perishables?

A. They are much better.

Q. Did you ever have any oranges consuming 8 days in transit arrive in bad order?

A. What markets do you mean?

Q. Northeastern markets.

A. I have had them go in bad order, yes, sir.

Q. When 8 days were consumed; that took 8 days in transit?

A. I think I have.

144 Q. Well have you where the movement was more rapid, through climatic influences, had them go in bad order?

A. Yes, sir.

Q. Then from what I understand you regard oranges as very perishable?

A. Yes, they are perishable. Some stock is a great deal more so than others. Hammock oranges are about the same as the Indian river and are more so than pine-land fruit. Some fruit will carry and hold up.

Q. Then the oranges from the pine lands are different than those from hammock land?

A. Yes, sir.

Mr. D. GREENLEAF appeared as a witness on the part of the defendant, who, being duly sworn, deposes and says:

Direct examination:

Q. Are you connected with the Fla. fruit exchange?

A. I am.

Q. In what capacity?

A. Vice-president.

Q. I hand you a Times-Union of the 25th of March and ask you to look at the card there and see if that was issued by the Florida fruit exchange.

A. It was.

(Defendant's solicitor offers in evidence copy of Florida Times-Union of March 25th, 1892, containing call for orange-growers' conference at Jacksonville, Fla., and signed by Geo. R. Fairbanks and others. Filed and marked as "Exhibit C.")

145 Mr. J. C. BRUYN appeared as a witness on the part of the defendant, who, being duly sworn, deposes and says:

Direct examination:

Q. What is your occupation?

A. I am claim agent of the S. F. & W.

Q. How long have you been in that position?

A. Since 1881, I think.

Q. I wish you would examine from page 21 down to page 25 of the pamphlet handed you and state what it is.

A. Well, I should say it was a statement that I made up of claims we had paid for short oranges.

Q. Will you examine it and see if it is correct or not?

A. Well, I suppose it is correct. I could not tell unless I had the original paper that I made up.

(Counsel for complainant makes no point upon the correctness.) The following statement is offered in evidence:

*Season of* 1889–'90.—*September*, 1889, *to April*, 1890.

| Name of consignee. | No. boxes. | Amount paid. | Destination. | Date of leaving basing point. |
|---|---|---|---|---|
| A. M. Ives | 1 | $2 24 | Boston | Mar. 27, '90 |
| " | 1 | 2 50 | Baltimore | Feb. 23, '90 |
| " | 3 | 7 35 | Boston | Jan. 18, '90 |
| " | 1 | 2 50 | " | Dec. 24, '89 |
| " | 1 | 2 50 | " | Dec. 16, '89 |
| " | 1 | 2 05 | " | Dec. 10, '89 |
| " | 1 | 2 25 | " | Dec. 4, '89 |
| " | 1 | 1 62 | " | Dec. 29, '89 |
| " | 1 | 2 35 | " | Nov. 19, '89 |
| D. Scull & Co. | 1 | 3 60 | Philadelphia | Mar. 24, '90 |
| 146 Aiken & H. | 3 | 8 25 | Pittsburg, Pa. | Nov. 23, '89 |
| Seaman & Kerr | 3 | 8 10 | New York | Mar. 29, '90 |
| W. A. Dodd | 3 | 9 00 | Manhassett, R. I | Dec. 13, '89 |
| H. W. Shellingsford | 1 | 3 00 | Springfield | Dec. 19, '89 |
| Brown & McM. | 1 | 2 25 | Philadelphia | Jan. 4, '90 |
| G. K. Holloway | 3 | 9 00 | " | Jan. 30, '89 |
| G. L. Parmer | 1 | 2 25 | New York | Dec. 15, '89 |
| Brown & McMahon | 2 | 6 00 | Philadelphia | Dec. 14, '89 |
| W. P. Wilkins | 1 | 3 25 | " | Jan. 12, '90 |
| M. G. Manne | 1 | 3 05 | Darlington, S. C. | Jan. 16, '90 |
| P. W. Ellis & Co | 1 | 2 50 | Toronto, Can | Feb 21, '90 |

*Season of* 1889–'90.—*September*, 1889, *to April*, 1890—Continued.

| Name of consignee. | No. boxes. | Amount paid. | Destination. | Date of leaving basing point. |
|---|---|---|---|---|
| Maltby, Ellis & Co | 1 | $2 00 | New York | Feb. 3, '90 |
| J. B. Wood | 5 | 17 70 | Louisville, Ky | Feb. 10, '90 |
| Mrs. B. B. Dibben | 2½ | 7 90 | Valdosta | Mar. 31, '90 |
| J. P. Yarrow & Son | 4 | 8 09 | Baltimore | Feb. 22, '90 |
| T. M. Leonard | 2 | 5 50 | Boston | Aug. 6, '89 |
| Gibbs & Hancock | 3 | 9 19 | Lynchburg, Va | Nov. 4, '89 |
| J. G. McCall | 2 | 4 00 | Darlington | Dec. 11, '89 |
| B. S. Crosby | 2 | 5 00 | Bedw'd Falls, Minn | Feb. 20, '90 |
| Burton & Co | 1 | 3 50 | Nashville, Tenn | Mar. 24, '90 |
| H. S. Williams | 2 | 7 00 | Boston | Jan. 27, '90 |
| E. R. Markham & Son | 1 | 2 21 | Hoosic Falls | Jan. 17, '90 |
| Stewart & Co | 1 | 2 25 | Philadelphia | Nov. 17, '89 |
| Pancost & Y | 1 | 2 25 | " | Nov. 9, '89 |
| Hobson & Co | 1 | 2 50 | " | Nov. 15, '89 |
| Stewart & Co | 1 | 2 25 | " | Nov. 23, '89 |
| R. L. Rattersch | 1 | 3 58 | Horseheads, N. Y | Nov. 29, '89 |
| J. H. Seward & Co | 2 | 5 00 | Baltimore | Dec. 16, '89 |
| W. R. Hillyer | 1 | 3 50 | Washington | Dec. 17, '89 |
| J. R. Whitmore | 1 | 3 00 | " | Nov. 9, '89 |
| Redfield & Son | 4 | 12 50 | Philadelphia | Dec. 19, '89 |
| T. D. Lockwood | 1 | 1 80 | New York | Nov. 21, '89 |
| C. K. Hollway | 1 | 1 75 | Washington | Jan. 2, '90 |
| D. C. Leakin | 3 | 7 50 | Adel, Ga | Feb. 25, '90 |
| G. O. Werts | 3 | 6 00 | Darlington, S. C | Jan. 25, '90 |
| F. J. Steel, brls | 2 | 12 63 | Temple, Ga | Nov. 19, '89 |
| L. B. Carter | 1 | 3 00 | Hague, Ga | Jan. 13, '90 |
| L. W. Sherman & Co | 1 | 2 50 | Boston | Feb. 4, '90 |
| P. Cooney | 1 | 1 25 | Baltimore | Jan. 25, '90 |
| L. W. Sherman & Co | 1 | 2 50 | Boston | Feb. 4, '90 |
| B. McKenna | 4 | 12 00 | Pittsburg, Pa | Dec. 4, '89 |
| K. Wiggins | ½ | 1 50 | Cincinnati | Mar. 2, '90 |
| J. Heady | 1 | 2 50 | Carbondale, Mo | Feb. 17, '90 |
| Cunnamin Bros | 1 | 3 50 | Nashville | Jan. 1, '90 |
| Dugger Bros | 1 | 3 50 | Columbia, Tenn | Nov. 20, '90 |
| J. L. Chamberlain & Co | 2 | 6 00 | Boston | Dec. 4, '89 |
| Maynard & Co | 1 | 3 85 | New York | Feb. 27, '90 |
| Brown & McM | 1 | 2 50 | Philadelphia | Apr. 6, '90 |
| C. C. Richardson, brls | 2 | 6 00 | Byron, Ga | Dec. 18, '89 |
| R. Whitney | 1 | 2 36 | Cincinnati | Mar. 15, '90 |
| 147 Cin. Fruit A. house | 2 | 5 00 | Cincinnati | Jan. 12, '90 |
| G. W. Calvin | 1 | 1 50 | Brunswick, Ga | Jan. 2, '90 |
| L. W. Goodale | 3 | 6 00 | Robbins, Tenn | Mar. 6, '89 |
| A. M. Ives | 1 | 2 63 | Boston | Mar. 20, '90 |
| Johnson & Green | 1 | 3 00 | Memphis | Feb. 6, '90 |
| Cin. Fruit A. house | 1½ | 3 75 | Cincinnati | Feb. 7, '90 |
| A. S. & J. Brown | 1 | 3 00 | Boston | Apr. 22, '89 |
| Rice & Holoway | 2 | 5 50 | " | Feb. 8, '89 |
| J. R. Gearsley | 2 | 6 00 | Bainbridge | Dec. 20, '89 |
| Hines & M | 1 | 2 00 | New York | Nov. 14, '90 |
| A. M. Ives | 1 | 1 50 | Boston | Jan. 15, '90 |
| J. Ed & Co | 2 | 5 40 | New York | Dec. 2, '90 |
| Ripley & Ripley | 1 | 1 83 | Boston | Oct. 15, '90 |
| D. T. & S. R. Dancey | 5 | 10 00 | Savannah | Jan. 25, '90 |
| Bond & Co | 1 | 2 30 | Charleston | Dec. 17, '90 |
| E. W. Bryan | 2 | 5 50 | River Junction | Dec. 27, '90 |
| Bryan & Waters | 1 | 2 75 | Blackshear | Dec. 18, '90 |
| W. R. Maxwell | 1 | 3 50 | Boston | Dec. 13, '90 |

*Season of* 1889–'90.—*September*, 1889, *to April*, 1890—Continued.

| Name of consignee. | No. boxes. | Amount paid. | Destination. | Date of leaving basing point. |
|---|---|---|---|---|
| Faton & Eustis | 1 | $4 00 | Boston | Nov. 26, '90 |
| C. H. Dawes | 1 | 2 50 | Norfolk | Jan. 11, '91 |
| J. Nix & Co | 1 | 3 50 | New York | Nov. 20, '90 |
| R. A. Coleman | 3 | 7 50 | Hahria | Dec. 9, '90 |
| J. B. Tait | 1 | 3 00 | Brunswick | Dec. 5, '90 |
| J. E. Taylor | 1 | 2 50 | Charleston | Dec. 23, '90 |
| Walker & Dushin | 1 | 3 00 | Eufaula | Feb. 2, '91 |
| Futch & Co | 1 | 3 50 | Augusta, Ga | Jan. 2, '91 |
| Ballou & Co | 1 | 3 00 | Boston | Feb. 13, '91 |
| Sands, T. & Co | 1 | 3 00 | " | Dec. 19, '90 |
| Young & Co | 1 | 2 50 | New York | Dec. 8, '90 |
| Seaman & Kerr | 1 | 3 00 | New York | Dec. 10, '90 |
| C. S. Dowling | 1 | 3 25 | New York | Nov. 17, '90 |
| Pipe & Banks | 2 | 8 00 | New York | Nov. 23, '90 |
| J. O. Brown | 1 | 2 69 | Troy, Ala | Dec. 8, '90 |
| A. M. Ives | 2 | 5 40 | Philadelphia | Nov. 23, '90 |
| E. B. Newson | 1 | 4 75 | Boston | Nov. 30, '90 |
| Rev. L. Phelps | 1 | 2 27 | Boston | Oct. 8, '90 |
| S. Sampson, brl | 1 | 5 86 | Georgia | Mar., '91 |
| Sherman & Co | 1 | 2 00 | Boston | Mar. 9, '91 |
| T. M. Leonard | 1 | 3 00 | Boston | Mar. 4, '91 |
| Eaton & Eustis | 1 | 3 00 | " | Feb. 28, '91 |
| Snow & Co | 1 | 3 00 | " | Jan. 5, '91 |
| Mither, B. & Co | 2 | 4 50 | New York | Feb. 23, '91 |
| P. Ruhlman & Co | 1 | 4 50 | New York | Feb. 15, '91 |
| W. S. Campbell | 1 | 4 00 | New York | Jan. 24, '91 |
| McCormick, H. & Co | 1 | 2 75 | New York | Dec. 25, '90 |
| S. W. Valentine | 2 | 6 00 | New York | Dec. 23, '90 |
| Shuts & Co | 1 | 3 50 | Atlanta | Dec. 22, '90 |
| A. M. Ives | 15 | 19 25 | Philadelphia | Sep. 19, '90 |
| J. A. Law | 1 | 3 98 | Sheffield, Ala | Nov. 14, '90 |
| H. W. Watson | 1 | 2 00 | Richmond | Nov. 21, '90 |
| 148 Shock & McM | 2 | 5 50 | Savannah | Dec. 20, '90 |
| T. F. Park | 1 | 3 00 | Mobile | Sep. 23, '90 |
| G. S. Van Horn | 10 | 17 50 | Savannah | Jan. 25, '91 |
| M. H. Reed, Jr | 1 | 4 00 | New York | Dec. 21, '90 |
| J. P. Wilson | 1 | 2 28 | Philadelphia | Dec. 23, '90 |
| H. Canale | 2 | 6 00 | Blackshear | Feb. 19, '91 |
| Sgobel & Day | 1 | 2 50 | Boston | Mar., '91 |
| R. L. Brower & Co | 1 | 3 00 | New York | Mar., '91 |
| J. Nix & Co | 1 | 3 00 | New York | Feb. 10, '91 |
| Archdeacon & Co | 1 | 4 50 | New York | Feb. 26, '91 |
| Blake & Ripley | 1 | 3 00 | Boston | Dec. 30, '90 |
| Hines & M | 1 | 2 00 | New York | Nov. 14, '90 |
| Taylor & Wallace | 1 | 3 75 | New York | Mar. 30, '91 |
| J. B. Odlum | 2 | 4 10 | Harford, Ky | Dec. 15, '90 |
| A. Giglio | 1 | 2 60 | Eufaula | Feb. 27, '91 |
| R. E. Lawton | 1 | 2 30 | Leary, Ga | Mar. 14, '91 |
| Pourner & Co | 2 | 7 00 | Boston | Feb. 5, '91 |
| A. M. Ives | 1 | 2 25 | Boston | Jan. 31, '91 |
| G. W. White | 1 | 2 75 | Camilla, Ga | Apr. 15, '91 |
| R. M. Ticker | 1 | 2 54 | Philadelphia | Nov. 6[illegible], '90 |
| G. M. Taylor & Co | 1 | 2 75 | Philadelphia | Jan. 1[illegible], '91 |
| J. H. Killough & Co | 1 | 2 75 | New York | Apr. 1, '91 |
| P. Ruhlman & Co | 4 | 22 00 | New York | Feb. 2[illegible], '91 |
| Wessells & Co | 1 | 2 15 | New York | Jan. 2[illegible], '91 |
| Force & Ubl | 1 | 2 00 | Augusta | Mar. [illegible], '91 |

*Season of* 1889–'90.—*September*, 1889, *to April*, 1890—Continued.

| Name of consignee. | No. boxes. | Amount paid. | Destination. | Date of leaving basing point. |
|---|---|---|---|---|
| J. T. Pearce | 3 | $10 19 | Columbus, Ga. | Apr. 4, '91 |
| A. W. Starbird | 1 | 2 50 | Lewiston, Tenn | Mar. 9, '91 |
| Mrs. L. H. Haynes | 1 | 2 04 | Rock Bottom | Dec. 31, '90 |
| Geo. Davis | 1 | 2 50 | Cleveland | Jan. 30, '91 |
| E. L. Palmer & Co | 1 | 2 00 | Baltimore | Jan. 5, '91 |
| E. F. McGraw | 1 | 4 45 | New York | Mar. 16, '91 |
| B. B. Ricker, bbl | 1 | 3 00 | Boston | Mar. 5, '91 |
| W. S. Chappell | 1 | 4 00 | New London, Ct. | Apr. 14, '91 |
| T. M. Leonard | 1 | 3 00 | Boston | Mar. 25, '91 |
| A. M. Ives | 1 | 2 75 | Chicago | Jan. 31, '90 |
| " | 1 | 3 00 | Montgomery | Jan. 11, '91 |
| W. M. Douling | 1 | 3 00 | Bridgeport | Nov. 14, '90 |
| Mrs. S. A. Coulter | 2 | 6 00 | Versailles, Ky | Feb. 11, '91 |
| Fox & Rider | 11 | 30 25 | Richmond | Mar. 7, '91 |
| Kepner & Co | 4 | 13 00 | Baltimore | Apr. 7, '91 |
| J. H. Killough & Co | 53 | 92 75 | New York | Nov. 16, '91 |
| O. A. Beale | 1 | 3 33 | Dixie, Ga. | Dec. 18, '91 |
| Kinley, L. & D. | 1 | 2 93 | Philadelphia | Mar. 12, '91 |

(Objected to because it does not show the price of oranges in any market and because it includes large amounts of oranges
149 destined to other points than northeastern cities, and does not show the kind of oranges in each shipment.)

Q. Referring to the list of claims for oranges I will ask you how they were paid, how they came to be paid?

A. They were paid on account of fruit being short at destination.

Q. Were they paid upon claims made by shippers, do you mean?

A. No, sir. There are some few that were made by shippers, but the majority are made by consignee at destination.

Q. For the shipper?

A. Yes, sir.

Q. Then the price is paid as stated there. Was that the amount claimed as their value at the point of terminal?

A. Yes, sir.

Cross-examination:

Q. In that list of orange claims paid, does that include any tangerines or fancy varieties?

A. I suppose it did. I could not tell you.

Q. Are these all the claims you paid for oranges during that period?

A. No, sir.

Q. They are not?

A. No, sir.

Q. Is that a complete list of the oranges paid for by the S. F. & W. Co. during the time covered by the list?

A. I should say that it was as near as I can get at it.

Q. Have you a memoranda in your office for the paid claims that would show which of these oranges were mandarins, tangerines and fancy kinds of oranges?

A. Yes, I expect I have.

150 Mr. A. M. IVES appeared as a witness on the part of the defendant, who, being duly sworn, deposes and says:

Direct examination:

Q. What is your business?

A. I am general manager of the Fla. fruit exchange.

Q. What is the rate from here to New York by the Clyde Steamship Co.? Do you know?

A. They are charging 40 cents a box.

Q. What is the rate on what is known as the John G. Christopher?

A. Thirty cents.

Q. What is the difference in time of arrival between the Christopher and the Clyde, and between the Clyde, Christopher and all-rail route fast freight?

(Objected to all questions concerning the all-rail route.)

A. The Christopher claims to make the time in 72 hours from Jacksonville to New York. I do not know the time claimed by the Clyde. They stop at Charleston on their way up and so consume some time there. I could not say positively what time they make. There is not a great deal of difference.

Q. What is the time of the all-rail movement?

A. It varies, I think, from 4 days to 8 and 10 to New York. We have had cars go from here to Baltimore in 3½ days and we have had them on the road 8 days.

Q. What is the time by the Ocean Steamship.

A. I think between 60 and 65 from Savannah. They have one ship that makes it a little quicker but there are other ships it takes 65 and possibly longer, that is hours, and the schedule time between here and Savannah is to leave here at 8 p. m. and to arrive in Savannah at 8 the next morning. That is to be added though
151 you would lose some time in Savannah. If they left here at 8 o'clock you might possibly make connections with the ship leaving there at 10 o'clock the next day but I do not see how you could figure a continuous time.

Q. Do you know anything as to the relative speed of the ships in the Ocean Steamship line and the John G. Christopher?

A. Only what I have seen advertised. I have had a shipment leaving here on the same day on the Christopher and the Savannah shipment beat it to New York leaving Savannah the same day it left here. It got in ahead of the Christopher but I don't know how many hours.

Q. Do you know what the average speed is of the Christopher?
A. I do not know except what is claimed.
Q. You say it is claimed she makes it in 72 hours. Do you know as a matter of fact that she makes it in 72 hours?
A. I do not.
Q. Have you shipped any oranges by the Christopher?
A. Yes.
Q. How many shipments have you made by her?
A. I believe about 4. I think we have shipped on her every trip she has made.
Q. What proportion have your shipments on the Christopher been to your shipments on the Ocean Steamship line?
A. I ship a great deal more by the Ocean Steamship line.
Q. What proportion do the shipments on the Christopher bear to the shipments by the all rail?
A. I only ship all rail to Baltimore and Philadelphia.
152 Q. What proportion do the shipments you make by the Clyde bear to your shipments by the Ocean Steamship line?
A. I ship a great deal more by the Ocean Steamship.
Q. Did you make a shipment on the Christopher on her first trip?
A. Yes.
Q. What condition did the fruit arrive in New York in?
A. In bad condition. Not all the shipment was bad, but there was a good deal of bad order in the shipment.
Q. Have you had that experience with any other shipments made by her?
A. No, sir, my shipments by her since then have been in fairly good condition.
Q. What was the bad condition? Fruit perishing?
A. Fruit decayed.
Q. To what do you attribute the perishing of fruit?
A. There are different causes. I think one great cause is the weather.
Q. Do you think the inherent quality of the fruit has anything to do with it?
A. Some fruit carries better than others.
Q. Without reference to that, has the inherent qualities anything to do with it?
A. I don't know.
Q. I mean the fact that is an orange.
A. No, it is not the fact that it is an orange because we have some oranges that we ship that go in good condition. On every trip we have some fruit that is more or less decayed.

153 Cross-examination:

Q. The Christopher line is but one ship?
A. Yes, one ship.
Q. Do you know if at the 30-cent rate she has been well patronized in the shipment of oranges or not?

A. I have myself patronized it pretty well on the days she has left.

Q. She is not a part of any extensive line of ships and has not been long used has she?

A. No, not to my knowledge. I know she has not been long used and I do not think she is connected with any other line.

Redirect examination:

Q. Are you able to hold your fruit and wait for the Christopher?

A. How long?

Q. For instance you get in a shipment the day after she leaves or the day she leaves, are you able to hold it for the next trip?

A. I would not think of it.

Q. Why?

A. Because I prefer paying a little higher price and getting it away.

Q. That is the only reason?

A. The fruit will not keep and go in as good condition.

Q. Would it decay?

A. Yes, it would decay.

Rev. LYMAN PHELPS, appeared as a witness for the defendant, who being duly sworn deposes and says:

154 Q. Where do you reside and what is your occupation?

A. I reside at Sanford, Orange Co. The latter part is a difficult question. I used to be in professional work but my health drove me here and I have been in a number of things, oranges principally.

Q. How long have you been engaged in fruit growing?

A. 17 years in this country.

Q. In what part?

A. Orange county.

Q. Did you have any experience in fruit-growing before you came here, orange-growing?

A. No, sir.

Q. Have you shipped oranges to any extent?

A. Somewhat.

Q. As an element of advantage in shipping oranges, how does speed compare with other requisites?

A. Well that is a very broad question. I should like to have you make it a little more narrow.

Q. I mean by that, is not rapid transit and delivery to destination a great advantage?

A. It certainly is in my experience. I should much rather have it continuously moving than lying over for the want of oxygen when standing still might do more damage in 3 hours than the movement would in 48. Its being switched off on side tracks for a few hours might be more detrimental than movement on towards destination.

Q. Why is that so? Because of the perishable nature of the article?

A. No, it is because the heat tends to increase and that causes fermentation. When it is moving there is a current of air that tends to prevent its heating so rapidly.

155 Q. Then is that fermentation due to the inherent qualities of the fruit?

A. No, it is not due to entirely to the inherent qualities of the fruit. It could not take place in the second condition of starch and sugar when mixed, and it would have to raise to a certain temperature before it could begin to take place.

Q. What effect has fermentation upon the fruit?

A. The moment the first germ is started it goes in arithmetical progression, that one produces two, and two produces four and four produces sixteen and so on in that way. It would go on in that ratio probably as all germ theories of disease would be calculated on the same plan.

Q. Has that a tendency to produce decay in the fruit?

A. Yes, the moment fermentation begins to take place it causes heat and that heat of course is the first breaking down of the tissues.

Q. Now compared with the movement of five days say to put fruit into northeastern cities with a delivery in eight days, what is the relative advantage?

A. I should be willing to make a difference of 10 cents on a box in favor of five days. I would rather pay more for the better transportation. I would pay 20 per cent. more for a five days' service than for an eight-day service from my place to destination.

Q. You regard the delivery of three days earlier of that much advantage?

A. I do.

Q. Do you know anything of the Mediterranean and California fruits, oranges?

A. I have some of it sent me each year, some comes from Porter Bros., a box for examination has been for a period of years sent me each year from Boston of Mediterranean fruit for examination under instruments.

156 Q. How do they compare in quality and weight?

A. As far as any that have come to me, the great advantage has been with our fruit. It is much heavier, it is fuller of juices and has less tissue and the tissue is tenderer with our fruit. The Mediterranean fruit will come to me so closely packed that instead of being a sphere it will be almost a perfect square. It can stand the pressure better than our fruit.

Q. Is there any particular preparation given the California fruit do you know before shipment?

A. No, sir, I do not. I have never inquired.

Q. Then as I understand the Florida fruit is more tender and delicate than the California or Mediterranean?

A. Yes.

Q. From your observation and experience will it bear shipment as well as the Mediterranean and California orange?

A. That depends on who grows the fruit and how it is fed.

Q. Explain, kindly.

A. Depends on what it eats.

Q. For instance, what would add to the hardiness of the fruit in the way of fertilizers?

A. Potash, sulphuric acid. Either of the chemicals.

Q. What fertilizer decreases its hardiness?

A. Nitrogen and phosphoric acid in excess.

Q. Aside from any particular fertilization in its natural state, do you consider the Florida orange to be more delicate than the California or Mediterranean orange?

A. Yes, sir.

Q. The California and Mediterranean, are they both a hardier fruit?

157 A. Well, I don't know in what sense you mean hardy.

Q. I mean in the sense of standing shipment.

A. Yes, sir; there is much more tissue and fiber and less juice. Porter Bros. wrote me recently that the good people did not want any more California fruit this year because it was dry and pithy and without juice.

Q. How about competition with the Florida fruit?

A. I have always been willing to compete at this time of the year with it. I have never taken into consideration that there was any competition with the California fruit as to quality, but I only speak of my own experience.

Q. Do you know whether at the beginning of the season growers color green oranges for shipment?

A. I do not see any color, sir. I have heard of such things, but I have not seen it.

Q. Is it not a fact that in the beginning of the season a good deal of green fruit is shipped—oranges?

A. I think it is the case, sir; a very lamentable fact.

Q. What would be its tendency as to influencing the market?

A. I do not know that I could positively tell you. I never wanted to ship any fruit until it was such as I could put my brand and stencil on and be willing to vouch that I believed in it.

Q. What I wanted to know more particularly was, does it not tend to disorganize and depress the market?

A. Anything poor does in all perishable products.

Q. Well, say in September, are oranges sufficiently advanced then to be at all mature in this country?

A. There may be 1,000 boxes in the State that are, not more.

Q. That would be the exception and not the rule?

A. That would be the rule.

158 Q. The mature fruit would be the exception and not the rule?

A. Yes. The rule is there are not more than 1,000 boxes of merchantable fruit in the State in September.

Q. What is the life ordinarily of the orange after being packed?

A. That depends again on what chemicals are used. It is possible to make an orange that would ship as well as a potato.

Q. I will ask you whether the weather and climatic influences affect the orange after it is taken from the tree?

A. Yes, sir; decidedly.

Q. In what way?

A. In a moist atmosphere the moisture settles on everything of that kind, and the moment the moisture begins to settle on it then it ferments.

Q. Rainy, murky weather tends to have this influence?

A. Yes, if it were picked and packed in thoroughly dry weather, put in a car that had sufficient ventilation every way and where there was a sufficent supply of oxygen it would stand a good deal better.

Q. To what extent do you regard the article as perishable?

A. In what time?

Q. I mean how do you class it among the perishables?

A. Well, it is not as much so as grapes or strawberries, or peaches or figs, because it has more of a rind to hold it up. I think if it was not damaged in any way it would stand a month or two.

Q. Do you class it among perishables?

A. I certainly would. I would class apples among the perishables. As far as my own fruit it concerned, I should say it
159 was a little more perishable than apples. I have little trouble, so far as I am concerned, when I get good transportation.

Q. I was going to ask how about fruit that is grown on cowpen lands.

A. It lacks potash; has an excess of nitrogen, which would make it tender and rather less skin, and I should regard it much more susceptible of fermentation and decay than if grown on lands where certain other chemicals were.

Q. Would that not be the case also of oranges grown and fertilized with highly ammoniated fertilizers?

A. That depends. If it is sulphate of ammonia I would not say it would. If the ammonia was produced from nitrogen I should say it would. Sulphur takes the ammonia, so it is not cast off. It is not taken up quickly. It is taken up slowly; it is not wasted.

Q. But the nitrate?

A. The nitrate would make a softer fruit.

Q. How about oranges grown upon hammock lands?

A. Most of the hammock lands are grown up with hard wood and there is an excess of phosphoric acid. It is a very handsome and tender fruit, and I do not think it ships as well as the pine-land fruit.

Q. In your experience and knowledge, how many varieties of oranges are grown in this State?

A. I have a medal from the American Horticultural Society for once having shown 114 varieties in this State, and I did not show nearly all I had. I would not swear how many there are, for I would not be believed.

Q. Do these varieties vary much in value and in saleable quality?

A. Yes, sir; they vary much in regard to tenderness and hardihood. The thinner the rind, the handsomer it is, the fuller of juice and the tenderer the tissue the more valuable it is.

160 Q. What has been the prevailing price of fruit this season?

A. I do not know.

Q. In your own experience, then?

A. I have only begun to ship my fruit within the last three weeks. I have got no returns say for a couple of hundred boxes.

Q. Do you regard it best to hold the fruit until later in the season?

A. I have never helped to break down the market before the first of March.

Q. What is the depression in the market due to? The quantity or quality of fruit?

A. Due to the want of quality.

Q. Is it also due to the quanity of shipment?

A. Of course it is if there is more than the people will eat. I suppose that has its effect.

Q. Is it not a fact that a large part of the oranges shipped from Florida are not of the best quality?

A. There is only a small percentage I should say that were. My experience as chairman of the State Horticultural Society is that not over five per cent. will grade as No. 1.

Q. As a rule in general shipments, is the average Florida orange carefully prepared and carefully packed?

A. Judging from what I see I should say not.

Q. I would ask, in your experience, what influence inferior picking and packing and handling has upon the market?

A. My experience is that the poorest box of fruit fixes the price for the shipment, and the poorest orange in the package fixes the price for the box.

Q. To what is that due?

A. It is due to the man who makes the excuses. If he
161 finds one that is not up to grade he criticises it and that influences the sale of the car-load of fruit. My rule in my own packing-house is if a man has any doubt about an orange going in the high grade to throw it in the grade below.

Cross-examination:

Q. What lines have you shipped north by?

A. Ninety per cent. by the South Florida, the J., T. & K. W., Savannah & Western and L. & N.

Q. Have you ever shipped any to the northeastern cities?

A. Yes, sir; Boston mostly. I believe I have not shipped any the last year or two save to Boston and Chicago. Ninety per cent. goes to Chicago.

Q. Ship any to New York city?

A. Not for the last two years. Years ago I used to ship a great many to New York.

Q. In shipping to Boston, what line do you ship by? I mean after it leaves Florida.

A. If it is in car-loads I ship by Atlantic Coast all rail. If less than car-loads I ship by Ocean Steamship.

Q. In shipping to Boston by the S., F. & W. and Ocean Steamship Co., what time does it usually take?

A. I do not recall, sir. I could not say as to that. I have had it by all rail to Boston in five days. I could not answer your question without my bills. My impression this year is that it has been six days.

Q. Have you ever had any cause of complaint in regard to delay in reaching destination?

A. Once only. That was three or four years ago, just after the yellow fever when there was not cars. I believe that is the only complaint I ever made.

Q. Apart from making actual complaint to the transpor-
162 tation lines, have you ever been disappointed in the time your fruit made? I mean has there ever been more delay than there ought to have been in reaching destination?

A. Never since that year. I have endeavored on my part to put the fruit up as I thought the company wanted it, and route it and see that they issued promptly to me bills of lading. I have complained sometimes that I have not got bills of lading when I wanted them. I have undertaken to do my part and have had a sort of faith in the transportation companies that they would do theirs.

Q. How long have you been shipping?

A. 17 years. The methods of transportation I believe have improved each year from that time on.

Q. Do you know of any improvement in the methods of transporting the last two years?

A. Better cars, better ventilated cars, cleaner cars.

Q. What do you mean by better ventilated cars?

A. Modern cars that are built better and more chance for oxygen to get in, more chance for ventilation and the roads have been more ready to close vents in stormy weather.

Q. What does the improvement in ventilation consist of?

A. More air for the cars; higher cars, more space between the boxes in the cars. The older cars did not have a space that a man could crawl in on top of the boxes, but in the cars they use now there is two feet at least after the boxes are put in.

Q. These the California ventilated cars you speak of?

A. No, the South Fla. ventilated cars are good, and the Goodell and L. & N. cars are good. These are the ones I usually use.

Q. Have you not had these cars over two years?

A. I think not.

163 Q. Do you remember when these cars were first furnished?

A. I think this is the third season I have used them.

Q. Do you give your oranges in preparing them for shipment

extra care and attention; I mean are you more careful than the general run of shippers?

A. Well, I presume I am, for I cannot put oranges up as cheaply as my neighbors say they do per box. I spend every day in the packing-house unless it is such a day as this and see it done with my own eyes.

Redirect examination:

Q. Do you give your oranges any more attention than any intelligent shipper and packer should?

A. I don't think I do. I give it what I think it is my business interest to give. I have to look out for myself.

Q. In regard to packing the cars. Is it not a fact that the fruit goes better when the cars are not packed full?

A. Yes. I want an open space between the dooes.

Q. What do you consider the number of boxes that should be loaded in a car?

A. I do not like to load over 300. I would like to send them with less.

Mr. F. B. PAPY appeared as a witness on the part of the defendant, who, being duly sworn, deposes and says:

Direct examination:

Q. What official position have you with the S., F. & W. Railroad Co.?

A. I am known as general freight agent.

Q. Can you tell me what the increase in shipment was in
164 the season of 1890 and '91 over the season of 1890 by the S., F. & W.?

A. If you refer to the year 1891 as compared with the season of 1890, the increase which was transported by the S., F. & W. was 700,000 boxes. If you refer to what is usually termed the season of 1890–'91 as compared with the season of 1891–'92, the increase transported by the S., F. & W. is 760-odd thousand boxes up to March 22d. The year was 700,000, but the season was 760-odd thousand.

Q. Can you tell me from information you have gotten as to the ratio of these shipments, increased shipments, that went to north-eastern cities?

A. The increase for the season of '91–'92, that is, the increase of 760,000 boxes, 560,000 boxes went to Eastern and 200,000 went to the Western markets in round numbers.

Q. Can you tell me what the freight rate was in 1884 — the S. F. & W.?

A. In 1884 it was 30 cents through freights.

Q. When oranges fail to bring their freight what has been your action for the road?

A. Our rule in respect to all perishable freights is we place our transportation against the product. If the orange reaches the market

and fails to bring freight money we remit all charges. In evidence of that fact, my friend Mr. Ives wrote me a letter a few days ago in respect to a delay and some damage which resulted by a storm, which prevented the Boston ships from arriving in time, and he asked that he be reimbursed to the extent of $56, which was cheerfully done the moment the matter was presented before the Ocean Steamship Co. and ours, and I so notified Mr. Ives. This is the practice in our watermelon shipments, and a practice which we carry out with all perishable freights—that is, the products of
165 this country. We think if the farmer or orange-grower, or fruit-grower, whether it be peaches, pears or anything else, are willing to risk their product we should be willing to risk the freight. Therefore, in a matter which was recently discussed before our Southern Railroad and Steamship Ass'n there was a demand on the part of certain melonmen that we should demand prepayment for the shipment of melons. We took the opposite position, and stated that the railroads should be willing to risk the freight or to put their transportation against the labor of those who produced the fruit, and we made that argument before the ass'n and it was adopted by all roads south of the Ohio river. The roads north of the Ohio demand that it should be prepaid. I think in our watermelon transportation last year, I cannot state positively but will approximate, that out of moneys we collected for the transportation of melons we refunded some $2,000 or $3,000 for this reason, and that $2,000 or $3,000 was simply the proportion of the S., F. & W., and not of other routes.

Q. Is it not a fact that by reason of having to guarantee freights north of the Potomac that you have at times paid back to shippers more than you have received?

A. I do not think I could answer that question.

(Objected to unless it is confined to oranges.)

Q. I will confine it to oranges.

A. The guarantee means that we will insure to the lines north of that point, where prepayment is demanded, their proportion of the freight, whether the fruit brings the amount or not. If it does not bring the amount we must make it good.

Q. How is the proportion paid? According to the revenue south?

A. It is paid by the lines in proportion to the revenue received by the lines south of the Ohio river.

166 (Excepted to on the ground that it has nothing to do with this case or the Ocean Steamship line.)

Q. Is the same rule applied with the water connections?

A. Yes.

Q. Then when you guaranteed freight and the freight was a total loss, have you not at times paid back more than you received on oranges?

A. I could not answer that question. You say paid back. Unquestionably if we took and prorated it through to a given point beyond the point where we have to give a guarantee our proportion

would be greater, for we would have to make good that beyond the base point, or rather the point where prepayment was demanded from.

Q. As to cars that take freight to the Ocean Steamship Co. have you return freight for them uniformly?

A. Not in all cases.

Q. Are there times when they return as empties?

A. We frequently have to call upon connections to furnish us with cars, and we send down sometimes 50 or 100 cars at a time for the movement of fruit in connection with the S., F. & W. Co. When we employ foreign cars we have to pay an additional mileage and at the same time create a great deal of dissatisfaction with the owners of these cars because we employ them in the service. We are obliged to do it, however.

Q. Then when these cars belong to foreign corporations you say there is extra mileage to be paid?

A. We have to pay 1½ cents for the round trip, ¾ cents each way. In order to handle this business with despatch we have to consolidate and are at considerable expense at Savannah, to do so.

Q. Please explain how that is?

A. By reason of the fact that all of the lines in Florida
167 gather their freight at every little cross-road and it goes into Savannah mixed for the Steamship and A. C. D. and A. C. L. We have had to extend our platform and keep a force employed, hence the necessity for our fast freight which gets in there at 7.50 a. m. and cannot leave again until 2 p. m. because of the necessity of consolidating that freight so there will be no delay between there and destination, and the average number of tons we have had to consolidate, taking three months, has been about 1,400 tons a month that we had to rehandle at that point to get it in condition so there would be no delay. I think I can give you the average number of tons we have had to handle there. November, 1,513 tons; December, 1,748 tons; January, 1,630 tons.

Q. That is after the arrival of the orange train from Florida it has to be rehandled?

A. Yes, so as to get it through without any delay.

Cross-examination:

Q. What number of boxes of oranges from Florida went to north-eastern cities last season by the S., F. & W. and Ocean Steamship lines?

A. I cannot give you what went by the Ocean Steamship without including what went by the Merchants' & Miners'.

Q. I will say Savannah and steamships?

A. For season 1891 up to March 22, there went by Savannah and steamships from—

| | |
|---|---|
| Jacksonville | 626,108 boxes |
| Callahan | 160,922 |
| Gainesville | 292,732 |
| | 1,079,762 |

168 For the season of 1890 and 1891:

| | |
|---|---|
| Jacksonville | 470,918 |
| Callahan | 82,254 |
| Gainesville | 137,024 |
| | 690,196 |
| Increase | 389,566 |

Q. Where oranges are shipped by S., F. & W. and Ocean Steamship Co., does the S, F. & W. have to guarantee the freight to Ocean Steamship Co.?

A. No, sir; the Ocean Steamship Co. occupy the same position that we do. They place transportation against the product.

Q. You spoke of having to handle oranges at Savannah in order to consolidate and handle with despatch. Is that a new arrangement?

A. No, sir; it has been in effect for some time. Since we have put on our fast freight in the last two or three years, we have had to extend our facilities in order to consolidate and save any delay.

Q. That has been the practice, then, for a number of years past. Since the orange shipment over the S., F. & W. has been of any volume, I presume?

A. It has been since the A. C. D. route has been open.

Q. That line was opened in 1888?

A. I think so, but our facilities have been greatly extended since then.

Q. This handling at Savannah was inaugurated on the opening of the A. C. D. line in 1888 then?

A. It was made necessary when that line was put on to give despatch because we could not detain the fruit.

Q. Were you present at the hearing of this matter before the Interstate Commerce Commission?

A. I was.

169 Q. You recall that the Atlantic Coast Line people claimed they were entitled to a raise in rate because they had to do all this handling at Wilmington?

A. I remember they had to put some additional facilities on. A good deal of freight goes north that does not go to Baltimore and Philadelphia and New York, but is distributed through the Virginias.

Q. The increased facilities for handling that you speak of at Savannah. What do they consist of?

A. Consist of extension of the platform and covering of it to accommodate the business.

Q. Has not that extension been made necessary by the increased amount of foreign business and shipments that you receive?

A. It was made necessary in order to consolidate that freight and handle it at that point. It was to provide for the shipments which pass through Savannah that these extensions were made necessary.

Q. You mean passing through by all-rail route?

A. By all-rail and steamer both because Mr. McCoy will load a

car down there that will have 10 or 15 boxes for the Ocean Steamship Co., and 10 boxes for the A. C. D. and it comes through on the Fla. Southern and we have to handle it into one car to prevent delay.

Q. That has been done since 1888?

A. I presume it has.

Q. And the increase of platform accommodations has been brought about by the increase in the amount of business?

A. I presume it is a fact.

Q. When you speak of handling about 1,400 tons per month at Savannah, I suppose that that includes the Atlantic Coast line as well as that by steamer connection?

A. Certainly. I should say the greater portion is for the Atlantic Coast Despatch.

170 Adjourned until Thursday, April 7th, at 10 o'clock a. m.

APRIL 7TH.

Met pursuant to adjournment at the office of Hon. Joseph H. Durkee.

Present as before.

N. S. PENNINGTON appeared as a witness on the part of the defendant, who, being duly sworn, deposes and says:

Direct examination by Mr. HARTRIDGE:

Q. What is your occupation, and how long have you been engaged in that occupation?

A. Traffic manager of the Florida Central and Peninsular railroad. I have been four years in that position, that is, three years as traffic manager and one year as general freight agent.

Q. How long have you been connected with railroad business?

A. Eighteen years.

Q. What is the distance from Citra to Callahan?

A. From Citra to Callahan by the Florida Central & Peninsular it is about 84 miles.

Q. Do you know the rates that were being charged during the receivership of the F., R. & N. Railroad Co. in 1888 and 1889, per box for oranges from Citra to Callahan?

A. In the winter of 1888 and 1889 we charged 25 cents a box up to a certain date, then the rate was reduced to 14 cents.

Q. Do you remember the operations of the State commission in the State of Florida?

171 A. Yes, sir.

Q. Did they make any rate per box over your line from Citra to Callahan?

A. They made a mileage rate, and calculating the distance at 84 miles that would give the rate from Citra to Callahan.

Q. What was that rate as fixed by the State commission?

A. Fifteen cents a box, I think.

Q. What is the speed of the fruit movement from Citra to Callahan on that line, the average speed?

A. Well, I should say 25 miles an hour.

Q. You say that is the freight speed?

A. Yes, it would be very hard to determine exactly what it would be because our trains are so arranged as to meet connections at Callahan, and in the case of the movement of fruit we run specials and move it by passenger trains or any way to get it there in order to meet these connections.

Q. Then when you say that the rate of average speed is 25 miles an hour, you don't mean the average movement of the ordinary freight trains?

A. No, the ordinary freight train runs 18 to 20 miles an hour.

Q. On your road?

A. Yes, sir; but I say 25 miles, because we give this especial attention to the movement of fruit.

Q. What is the distance from Citra to Gainesville?

A. I don't remember what it is.

Q. As near as you can recollect?

By the MASTER:

Q. By what road?

A. By way of Waldo and the F. C. & P. it would be about fifty miles.

Q. Would it be fifty miles?

172 A. It would be longer by the F. C. & P. than by the Florida Southern which is the direct route, but by the F. C. & P.—would there be any objection to my looking at a guide then I can tell exactly.

Q. No, sir.

A. Say 42 miles.

Q. Do you remember the charge per box on the F. C. & P. from Citra to Gainesville in 1888–'89?

A. In 1888 and 1889 during the time we charged 25 cents per box into Callahan, the rate would have been the same to Gainesville but no oranges moved in that direction. You see it would have been a roundabout way. We did not move any oranges by way of Gainesville.

Q. Do you know whether the commission fixed any rate for that?

A. For the mileage of 42 miles they did fix a rate, but that would have been entirely out of the way.

Q. What would have been that rate?

A. The rate would have been say 14 cents a box.

Q. What was the distance by the Florida Southern from Citra to Gainesville?

A. 31 miles.

Q. Do you know the rate they fixed for that 31 miles, the State commission?

A. 14 cents per box.

Q. In the movement of oranges, can you load your cars to their full tonnage?

A. No, sir. Oranges going beyond the Ohio river would be

loaded with about 300 boxes, south of the Ohio 250 boxes to get advantage of the car-load rate, but the average car-load going east would be maybe 250 or 300 boxes.

Q. Do you haul as much by tonnage of oranges as you do of dead freight?

A. No, sir.

173 Q. Is there any other difficulty attending the movement of perishables like oranges than the movement of dead freight?

A. Yes, it requires especial attention.

Q. Please state in what particulars it is more difficult to handle than dead freight?

A. Well, the perishable freight as I have mentioned is moved on schedules to make the best time possible.

By Mr. COOPER:

Q. You are speaking of the F. C. & P.?

A. Yes; and extra trains are run all the time keeping in view the rapidity of the movement of perishables to a market. It is not necessary in the movement of other kinds of freight to make the same endeavor. For the movement of perishables, cars are especially built for the purpose, ventilated and refrigerator cars; we have to bring into the State when we are short of cars foreign cars especially constructed for the same business on which we pay mileage; we keep up a telegraphic correspondence in tracing the property and urging it forward and it needs constant attention, more so than any other kind of freight, and as oranges and perishables are specially a large product of Florida, we give constant attention to this matter.

Q. Do not these circumstances and necessities that you state apply as a matter of fact to all roads moving fruit from this quarter?

A. Yes, I know it. They are all subjected to the same things, they are compelled to take care of it in the same way.

Q. Does fruit as a rule go through in the cars in which it is originally loaded?

A. It generally does except in special instances, as for example a lot of oranges going by way of Savannah and the Ocean S. S.

174 Co., or via Jacksonville and the Clyde ships, via Fernandina and the Mallory line, then, of course, it would be transferred. The fruit shippers always insist upon it going through in the same cars.

Q. Are oranges as a freight, an accommodating freight?

A. One that we can move at our convenience? No, sir, we have to move it at the convenience of the public, the shipper. That is what we strive to do, to accommodate him in every way.

Q. The necessity is imposed by the fruit?

A. It is imposed in consequence of that kind of traffic.

Q. How in regard to dead freights in that respect?

A. As a general thing, all railroads strive to make the best time they can, but they do not have to apply and do not apply the same efforts to move dead freights they do fruit.

Q. You stated as a rule, Mr. Pennington, cars were not loaded to their capacity. Is that because there is not room inside?

A. No, because the fruit has to be taken care of and there has to be room. A car of a capacity of 40,000 pounds would be generally loaded with 250 to 300 boxes of oranges going west. Going east it might have as few as 100 or 200 boxes. We do not hold a car to complete the capacity of the car, but we are satisfied to move it with 250 or 300 boxes and less than 250 in order to get the fruit to market with expedition. It is a special service.

Q. Do you connect with the train known as No. 208 of the Coast line?

A. Yes, sir.

Q. You know of that train then?

A. Yes, sir.

175 Q. In the movement of fruit, considering the facts surrounding it and in the light of your experience and observation, would 20 cents a box from here to Savannah be a reasonable or unreasonable rate?

A. It would be a reasonable rate for the service performed.

Q. Do you know or not the orange-growers utilize their ground for other truck-market gardening as well as oranges?

A. In some cases. I do not think it is general though.

Q. In all cases would it not be to the advantage of the carrier if he could load his cars to the full tonnage?

A. Certainly. He might put two trains of oranges in one. If it could be loaded like wheat or grain the capacity of two trains might be hauled in one train.

Q. Do you regard, from your experience, the orange to be a perishable fruit or not?

A. Yes, it is a perishable fruit.

Q. How does the movement of other freights compare in point of reclamations made by the shippers with that of oranges?

A. There are more claims against oranges than any other kind of freight.

Q. Is that the rule to a large or small extent, speaking relatively?

A. From the very nature of the fruit it is to a very large extent.

Q. In fixing your freight charges is the liability for reclamation by reason of the perishability of the commodity an element to take into consideration?

A. The railroad company does not guarantee to deliver the freight in any certain time.

Q. What I mean is when you go to fix a rate for transporting a commodity, do you consider the character of that commodity as one of the elements?

176 A. Yes, sir, certainly.

Cross-examination by Mr. COOPER:

Q. The F. C. & P. as regards the orange traffic is a local or gathering road, is it not?

A. Not altogether. Part of the oranges moving over the F. C. &

P. road originate on the line of the F. C. & P. and part on the line of other roads.

Q. The rates of the F. C. & P. to which you have testified, are local rates within the State of Florida, are they not?

A. The rates I mentioned were those charged, 25 cents a box by the F. C. & P. R'y to a junction point. The other figures were the rates prescribed by the Florida State commission.

Q. These are the local rates of the F. C. & P., they are not a part of the through rate?

A. They became a part of the through rate; they happened to be the same figures as the local rates to the junction point. That is if we took a car-load of oranges from Citra we would haul it to Callahan and charge 14 cents a box, which added to the rate of 40 cents from Callahan to New York would make the through rate 54 cents, but the 14 cents also becomes a local rate to Jacksonville, another basing point. The commission would have allowed us to charge 15 cents to Jacksonville and Callahan is consequence of our making the through rate based on 14.

Q. You spoke of a rate allowed by the Florida railroad commission. Of course the State commission could not regulate any rate governed by the Interstate Commission. Their regulation or the rate they allowed was for Florida local rates?

177 A. It was the mileage rate in Florida, but that became in consequence of the exigencies of the case and the movement of the oranges to markets out of Florida, a figure that was added to the basing rate and then we accepted that as local which was less than mileage rate allowed by the commission. We did not charge what the commission allowed us, say 15 cents a box, but we charged 14 cents a box locally which was really a rate dictated by the through business. It has the significance of a local rate by usage.

Q. The rate on oranges from Florida to northeastern cities is made up of a through rate from the basing point to the point of destination, to which is added the local rate of the Florida road to the junction point, is it not? They take their local rate to a junction point, then there is a through rate that is prorated among the carriers beyond?

A. That rate is divided by the carriers beyond. It is given to us as a bulk figure, 40 cents for instance, and we add to that our portion which happens to be our own rate.

Q. You are getting at what I want. You charge your local rate to Callahan or whatever other basing point it may be. Then there is a bulk figure which is a through rate from the basing point to destination which is given to you by the carriers beyond?

A. It is given to us by the division.

Q. In point of fact you do not prorate with the lines beyond in one through rate, but you charge your local rate to the basing point and then there is a rate beyond which they dispose of as they see fit?

A. Yes, it has this significance. We will take a local station on the F. C. & P. and the rate to Callahan will be say 14 cents; a local station on the Orange Belt road, which is south of us, the rate

to Callahan would be 18 cents, and in all that vicinity on
178 the F. C. & P. line the rate would be 18 cents; that is, this rate to the basing point might be of the same significance as the rate from the basing point to a market, because we regulate the rate so as to make a certain territory pay about the same prices to the basing point and also through to market. You take, for instance, Lacochee. If I remember rightly the rate to Callahan is 18 cents; a station on the Orange Belt south is 18 cents that comes over our road and goes to Callahan.

Q. Your local rate from Citra to Callahan is 14 cents?

A. Yes.

Q. In railroad traffic is it not customary to permit a larger rate to be charged as a local or for a short distance than for a through rate for a long distance?

A. If you should add up all the locals from here to New York it would make such a high rate that stuff could not be moved there, therefore the lower rate is made to enable the freight to get to market, in which our rate is significant as being as low as the through rate. It so happens that the rates in Florida are not significantly high locally.

Q. Have you ever had occasion to consider the proportion which the rate on oranges via the Savannah, Florida & Western from the basing point in Florida to Savannah bears to the proportions which are received by other carriers connecting with it at Savannah and transporting the freight from Savannah to northeastern cities? Do you know what it is? You were asked whether a rate to Savannah was a reasonable rate. I ask if you have occasion to know or to consider in connection with that what the carriers beyond receive out of the through rate from a basing point in Florida north to Savannah?

A. If you mean if I know what the divisions are, I do know, but I have nothing to do with that. That is an arrangement between the two roads.

179 Q. You have nothing to do with anything involved in this controversy at all.

A. I do consider it in a general proposition. If my attention is called to a rate sheet showing the divisions of a rate I notice it.

Q. When you spoke of the rate from the Florida basing point to Savannah as being a reasonable rate, is it not a fact that it is a much larger rate per ton per mile than the carriers north of Savannah receive for transporting the oranges out of the through rate?

A. Probably it would be, but that is a thing I would say that all railroad managers strive to arrange to their best advantage. Take a through rate that is a dollar, if I can get seventy-five cents and make the other fellow haul it for twenty-five I am certainly going to do it. It has no significance as to the amount charged on the property through to destination, and when you ask me if I consider it, I do consider it and think of it.

Q. But in considering a through rate, say for instance from Jacksonville to New York, if the lines north of Savannah are content to accept and transport the business at a much less rate than the

S., F. & W. collect from Jacksonville to Savannah, has not that a significance in determining whether the through rate is a reasonable rate on traffic hauled say 1,050 miles.

A. No; I do not think it is significant. You could not add up all the locals between here and New York and put freight through, but the roads meet and agree upon a certain through rate. My division might have so much, another man's so much and another one's so much.

Q. Then if the lines north of Savannah were to charge in the same proportion that the S., F. & W. charges from Florida
180 basing point to Savannah, it would be prohibitory to the traffic? It would be more than the truck could bear?

A. It might be. My recollection is that the Pennsylvania road accepts an arbitrary on its orange traffic from here to New York.

Q. And they get less than anybody?

A. On vegetables they do. The rate that the S., F. & W. gets out of the through rate to Savannah is based on the competition of the Ocean S. S. Co. from Savannah. The S., F. & W. had a right to demand out of this through rate as much money as they would get out of it by the Ocean S. S. Co. whether it went by rail or went by water.

Q. Your idea is that as the S., F. & W. happen to hold the key to the traffic, and being the only rail northeastern outlet, they have a right to demand and receive as much as they can get out of it?

A. Certainly. That is what they built the road for.

Q. That is so from one standpoint?

A. It is a fair commercial standpoint. It is fair from a strategic standpoint.

Q. You say it is fair from a strategic standpoint?

A. Yes.

Q. You mean by holding the key they have a right to demand what they can get?

A. They have a right to demand the best division they can get from their connections. They do not demand, for instance, 50 cents.

Q. Well, they demand as much as they can get in competition with water from Jacksonville and Fernandina?

A. Certainly. The rate from Jacksonville or Fernandina by the water lines is say 40 cents a box to New York. The S., F. & W. has a rail and water line by way of Savannah and make the same rate. They divide that up with the Ocean S. S. Co. as best be-
181 comes them; then there is a certain rate on the all-rail line.

Q. When you speak of oranges being a perishable fruit, the term perishable is a comparative one. They are not as much so as some other things, strawberries or tomatoes?

A. No, not as much so.

Q. There are some articles, then, that are more perishable than oranges?

A. Yes, sir.

Redirect examination:

Q. The reasonableness of a through rate is inno wise dependent upon the proportions into which that rate is divided is it?

A. Certainly not.

Q. Is not the fact that there is competition beyond the terminal of one road and not against that road, a factor in fixing the amount received?

A. Do you mean to apply that to a certain road or to what road?

Q. I mean this. For instance, one road may have competition where they receive it. The other roads get a larger proportion, not having competition?

A. Yes; I think I expressed that a while ago.

Q. Is it not a fact that the lines connecting with the S., F. & W. north of Savannah have competition?

A. From Savannah north, yes.

Q. You said that your local to Callahan from Citra was 14 cents. Is not that also the through rate?

A. Yes, sir; that is our proportion of the through rate.

Q. You were asked whether the fixing of the rate by the State commission was not for the State and that yours was inter-
182 state. Is it not a fact they sought to fix that upon you before the courts decided it was interstate?

A. Who sought to do it?

Q. The State commission sought to fix the rate upon you?

A. It sought to fix a less rate upon us, yes, sir, by insisting it was a- interstate rate. They insisted it was an interstate rate and a State rate, and one time it was one way and another time another, and we told them to consider it as they pleased, that our rate was 25 cents.

Q. Was not that rate sustained by the courts?

A. Yes, sir.

Recross-examination:

Q. What court?

A. I am not familiar with what was done in that case.

Q. Was the decision of the court anything more than that in the case in question it was an interstate rate and therefore the commission had no jurisdiction?

A. I do not remember.

Q. When you state that the division of the through rate has no significance as to the reasonableness of the rate, is it not a fact that the amount received by one carrier may have significance in determining whether the whole through rate is excessive or not? May it not have a bearing upon the question as to whether the entire through rate is excessive if one carrier receives much more than another?

A. Not if that through rate is reasonable.

Q. But is it not a matter that enters into the consideration as to whether the through rate is reasonable?

A. No, sir. For instance, if the rate on oranges from here to New

York by the Clyde line is 40 cents and they don't divide
183 with anybody, that does not affect the rate, and what the S., F. & W. gets as its proportion out of the through rate does not change the through figures a particle.

Q. You are aware of the fact that the Interstate Commerce Commission in several cases has decided that the shipper has nothing to do with how the rate is divided if the through rate is reasonable, yet the circumstance that one carrier receives a much larger rate than the others is a fact that goes to say if the total rate is excessive?

A. No, I do not think it decided that. I think they decided it had nothing to do with the divisions, though they did a great many illogical things.

In further explanation of his testimony, Mr. Pennington states as follows:

In reply to the arbitrary question as to whether the divisions of a rate affect the reasonableness of the rate, I have to say that the division might do so. In the present case the proportion charged by the S., F. & W. is not unreasonable, in my opinion, because they have a certain prorating arrangement with the Ocean S. S. Co. that gives them out of the through rate of 40 cents, 20 cents or whatever proportion it may be which they receive. If the through rate was less than 40 cents from Jacksonville they would receive a less proportion.

Adjourned until Wednesday, April 6th, at 10 o'clock a. m.

184 JAMES A. HARRIS appeared as a witness on the part of defendant, who, being duly sworn, deposes and says:

Direct examination:

Q. Have you ever been engaged in growing oranges?
A. Yes.
Q. How long have you been engaged in that business?
A. About 21 or 22 years.
Q. Did you own any orange groves in or near Citra?
A. Yes.
Q. You shipped by car-load lots, Mr. Harris?
A. Yes, nearly altogether.
Q. In shipping car-load lots do you load the cars to the fullest tonnage capacity?
A. Well, not always.
Q. About how many boxes?
A. I have put in generally, upon an average, 300 boxes. Sometimes I have put in as many as 500, but that would be only when cars were scarce. The railroad companies do not want us to overload their cars.
Q. As a rule you put in 300?
A. Yes; never less than 250, and very frequently, I guess, one-third of my cars were loaded with 400 boxes.

Q. Is it not to the advantage of the orange when shipped to have a space left between the boxes?

A. Certainly.

Q. And a space between the top of the car and the boxes?

A. For ventilation; yes, sir. I will say the capacity of a car is not so it can be loaded full clear up to the top, or very few cars at least.

Q. You mean, then, that filing them full would not reach their tonnage capacity?

185 A. Filling them full would overreach their tonnage capacity. Filling clear to the top would overreach the tonnage capacity of most cars.

Q. Speaking relatively as to what tonnage?

A. Most of the cars are marked from 30,000 to 40,000 pounds, sometimes 60,000, but very rarely.

Q. What is the weight of a box?

A. The weight of a box is about 90 pounds, taking the average box, but it has always been estimated at 80.

Q. Can you remember the number of boxes shipped by you in 1879?

A. About 6,000 boxes.

Q. What was your shipment in 1888?

A. About 47,000 boxes. No, not 1888. The only year I shipped 47,000 boxes was the winter of 1887 and '88. It was the season of 1887–'88, not the crop of '88. The frost was in January, '86.

Q. From the year '79, when there was 6,000 boxes, up to the time it reached the maximum of 47,000, was there a gradual increasing?

A. Yes; some years it might have fallen back 1,000 or 2,000 boxes, but it increased.

Q. I will ask, as a matter of fact, if after an orange grove begins to bear, is it not a rule that the shipments gradually increase?

A. Yes, sir.

Q. Do you know the life of an orange tree?

A. It depends on the care given it. It is one of those things that would go back quicker than almost any other fruit tree unless cared for. I have heard of orange trees being 200 or 300 years old, but I never saw them.

Q. In your experience how old have you known them to be, what is their life?

A. I have seen trees planted before I was born, but I do not know how far they went back.

186 Q. That would be how many years?

A. 45.

Q. And they were still bearing?

A. Yes; but unless they are cared for they go back and run down.

Q. They do not die?

A. They certainly die.

Q. Is it a matter of fact you have seen them frequently where they have had no care or attention whatever live to a great age?

A. Not except sour trees that were on plantations. The trees around yards have more or less care and attention.

Q. Is not a sour tree more sensitive to cold than a sweet one?

A. No, I think not. A lemon tree is.

Q. How many acres did you have planted, Mr. Harris, at the time of the heavy shipment?

A. About 160 acres.

Q. That was the product of the 160 acres?

A. There were 25 acres at Ocala. The product of that may have been included in the 160 acres. The grove at Citra was 160 acres, taking out the waste land in the tract.

Q. Mr. Harris, without meaning to pry into your matters, what was the greatest net proceeds of any shipment you ever had?

A. I cannot answer very well now. I don't know that the crop of 47,000 boxes netted me more than some smaller crops that were better fruit. That 47,000 boxes was rather poor fruit. I think I got f. o. b. $60,000 for it. You have got to make calculations to get at the expense of gathering and packing this crop, which I think would not be less than 40 cents a box. Including cultivation, boxes, gathering and packing it might run 50.

187 Q. Then that would leave about $40,000 net?

A. Yes, $30,000 to $40,000 net, and I expect you had better say $30,000 net.

Q. I will ask you whether as a rule the crops have yielded more than the cost of putting up and shipping them?

A. Yes, take the crops right through. Some car-loads I have lost money on.

Q. I mean as crops?

A. Yes.

Cross-examination:

Q. Your groves of which you testified are very favorably situated are they not as to soil and location?

A. Yes, I suppose as to soil and location and quality of fruit. It is on hammock land that was originally covered with wild orange trees, which shows its adaptability to orange cultivation, and I really believe a few thousand acres in that vicinity is the best soil in the State of Florida for orange-growing as to quantity. The only drawback is that we get too much frost occasionally.

Q. In considering the expense of planting a grove and bringing it to bearing, of taking care of the trees, fertilizing and keeping them up after they come into bearing, etc., the expense would vary a good deal in accordance with the kind of soil on which the grove was, and its location, would it not?

A. Certainly, it would vary a good deal, and I will say up to the time we shipped this large crop of fruit we had been to no expense for fertilizer or for fighting insects until after that crop was shipped.

Q. How has it been since that time?

188 A. Since that time we have had the red spider and other insects and we had to fertilize to a considerable extent.

Q. Are not a large proportion of the groves in the State on pine lands, where they have constantly to keep up the groves at considerable expense in the way of fertilizer?

A. Yes, sir; the fertilizer bill on most of the pine-land groves is very large.

Q. In planting out a grove, Mr. Harris, and bringing it into bearing, is it not a fact that for a considerable number of years there is a constant expenditure before the owner receives any return from his investment, as a general rule?

A. Yes, sir; it is from 5 to 7 years before he gets anything like his expenses after planting it out.

Q. Is not there in large portions of the State and in a great many localities, great danger to the life of the orange trees every year from frost?

A. Yes, we have to run the chances of frost in a great many localities in the State. There are some localities where they are comparatively free from danger, but the great bulk of the State is liable to frosts every year. Take it at Citra, there was a frost on the 20th March and they won't have one-fifth of what they would have had had it not been for the frost.

Q. As I understand you then, there is danger of frost to most of the orange groves, both as to the trees and as to the fruit crop?

A. Yes, sir. In March, 1890, we had a great many bearing trees down in Hernando county, killed to the ground and which ultimately died out root and branch.

Q. You testified, Mr. Harris, that a grove if properly cared for would increase its yield from year to year. Is it not also true as a general rule that there is an increased expense necessary for
189 fertilizer bills and other items in keeping up a grove with the lapse of time?

A. Yes, I think so. Of course after they get up to what we call full bearing, then they stop increasing and some years they go back and the next year have a fuller crop, but when they are young, the first 5 or 6 years, they will increase from year to year as a rule.

Q. What has been the general condition of the market for Florida oranges for the present season of '91–'2?

A. Prices have been very low. A great deal of the fruit has not brought enough to pay for the boxes it went in after paying freight and commissions.

Q. You were asked whether on a crop which you shipped in 1886–'87, or along there, you did not receive certain returns. From your knowledge of the orange market in the State generally during the present season of 1891–'92, and also your own experience, could you express an opinion as to whether the growers generally had realized any net profit on their oranges after taking out the cost of transporting, packing and production? That is, whether there has been any net profit to the growers, and if so, about how much?

A. Taking the general fruit crop of the State up to the 1st of March of this year, I don't believe it paid for the cultivation, fertilizing and packing of the fruit. Since then prices have been

better and they have made some little money, since the 1st of March. Of course some people made money before, but a good many lost money.

Q. Is it not true that the greater part of the crop was shipped before March 1st?

A. By far the larger half of it.

Redirect examination:

190 Q. How often, Mr. Harris, have you known the frosts to be sufficiently severe in Florida to destroy the life of the orange trees?

A. In Dec. '66 we had a frost that killed out a good many orange trees in some portions, and then March, '67, we had a frost that killed out a good many trees, and in '69 there was another frost that killed out a good many, and in '76 there was a frost that did a great deal of damage in killing trees in the State, and then I think in '79 there was another, then in '86 there was another, and in March, '90, and that is all.

Q. To what extent in the State did it destroy the trees in these several frosts?

A. I could not tell the extent, but a large percentage were killed, especially young trees.

Q. Of the bearing trees, what would you say the percentage was?

A. I do not know, except in March, '90. I never had any trees killed out root and branch, except in March, '90, but they had the tops cut off in some years.

Q. As a rule, in the frosts that you say killed these trees, as to those that were injured, or, as you say, killed, were they not reproduced by topping them?

A. Not in the spring of '90. A good many were killed out root and branch then.

Q. In the other years were they reproduced by topping?

A. Most of them; by cutting off the frosted surface and leaving the large limbs in two years they regain their original size, except some lemon trees, which were lost.

Q. It would be how many years before they would get back?

A. About two years after some of these severe frosts.

Q. Have you known any frosts in which the trees were uniformly destroyed in this State?

191–194 A. No, not throughout the State. Some sections are naturally protected by waters or high hills.

Q. Is it not a matter of fact that the frosts have gone in streaks or through certain territories only?

A. Most of them. Some of them, like 1886, were general all over the State, but most of them have been in localities or streaks through the State.

Met pursuant to adjournment.
Present as before.

Mr. GEORGE R. FAIRBANKS, appeared as a witness on the part of defendant, who, being duly sworn, deposes and says:

Direct examination by Mr. HARTRIDGE:

Q. Have you been engaged in the growing and raising of oranges at all?

A. Yes, for a good many years.

Q. To what extent have you engaged in the growing of oranges?

A. Well, sir, my crops have gradually increased from 3,000 to 10,000 boxes.

Q. Is not the orange an accommodating and waiting fruit compared, say, with apples and peaches? I mean by that it does not rot and drop from the tree like apples and peaches?

A. Well, the orange does not drop from the tree like peaches. Some varieties of apples hold very well on the tree, certain kinds do, but there is quite a difference in apples, still, the orange stays on the tree better than any other fruit I know of.

Q. You can ship part of the crop and wait for the shipment of the other?

A. Yes.

Q. Is it not a fact that the orange will stay on the tree until the close of the season and beginning to blossom of the tree for the new crop?

A. Not without considerable loss. There is a great difference in fruit. Some fruit will mature early and will begin to drop early, and others will hold considerably better. There is quite a
196 difference in fruit but there is a good deal of loss on all fruit that is left on the tree by droppings.

Q. Is it not a fact that some of the most successful growers hold their crops until the late markets, for instance, for the February and March market?

A. Well, I don't know as they can be considered the most successful. I know that the people on the Indian river hold their fruit back, but when I have been down there and seen the fruit on the trees I have seen a great many droppings, too. I think they hold back for a good price at the loss of a considerable percentage in drops in the meantime.

Q. Did you ever see a rotten orange hanging on a tree except it was rotted by being thorned or bruised?

A. I have seen a great many.

Q. Rotten oranges hanging on trees?

A. Yes.

Q. In what months was that?

A. All through the season, particularly later. I have seen on some trees a very large percentage rot on the trees.

Q. Whereabouts was that?

A. Down on my grove.

Q. What county is that?

A. Alachua county.

Q. Is it not a fact that there are growers in Orange county for instance, who hold their crops for the February and March market?

A. I don't know.

Q. When does the orange shipment commence?

A. Well, in a small way in October, the last of October.

Q. What months are the heaviest shipments made in?

A. November and December generally.

197 Q. When are the last shipments as a rule, made?

A. Well, there are some oranges shipped as late as May but they are generally of the variety known as Hart's Late, which do not mature until late. There are Hart's Late now in the State not ready for shipment.

Q. Is it not a fact that there are several varieties shipped as late as March?

A. O, yes; there are varieties shipped as late as March and some in April.

Cross-examination by Mr. COOPER:

*A.* When the oranges are left on the trees until late in the shipping season, in addition to the percentage lost from dropping, is there not also considerable danger of loss of the crop from frost?

A. Very considerable. There is always a very great risk, and on that account I always ship a large portion of my crop before Christmas for fear of frost.

Q. By what time in the season do you complete your shipments usually?

A. About the 1st of March; sometimes a little later.

Major J. A. LESLIE appeared as a witness on the part of defendant, who, being duly sworn, deposes and says:

Direct examination:

Q. What is your occupation?

A. Superintendant of Clyde Steamship Co.

Q. Between what points do the ships of your line ply?

A. Run between Jacksonville and New York, touching at Charleston.

198 Q. What is the distance by this line to New York from Jacksonville?

A. It is considered something over 900 miles; between 900 and 1,000 miles.

Q. What is the distance by steamship line from Savannah to New York?

A. It is probably 200 miles less. I should judge it was between 700 and 800 miles from Savannah; probably 800, including river and all.

Q. Taking into consideration the stoppages made by the Clyde

steamships from Jacksonville to New York, what is the time made?

A. The average time is about 3½ days, including stoppage at Charleston. They stop there six or eight hours.

Q. In that three days you mean 24 hours to the day?

A. Yes; the running time is about three days.

Mr. D. E. MAXWELL appeared as a witness on the part of defendant, who, being duly sworn, deposes and says:

Direct examination:

Q. What is your present position in connection with the F. C. & P. Railroad Co.?

A. General manager of the F. C. & P.

Q. How long have you been connected with the F. C. & P. and its predecessors?

A. Since 1872.

Q. How long have you been connected with the railroad business?

A. Since 1865.

Q. Have you had any experience in regard to the fixing of rates, both as to perishables and dead freights?

199 A. Some experience in that line.

Q. Each year since your connection with the railroad service has brought you more or less in connection with that matter?

A. Yes, sir.

Q. I will ask the rule as to fixing a freight rate, relatively as to dead freights and perishables.

A. I do not know that there are any specific rules. The rates on dead freight are always considered less and the cost of conducting dead freights is always considered less than that of perishables. Usually perishable freights are in excess of dead freights, the purpose being not only to cover the extra cost of conducting that freight but also to make some revenue.

Q. By excess you mean that the freight rates are larger?

A. Yes, increased rates.

Q. What reason apply to make the charges upon perishables larger than dead freights?

A. The despatch it is necessary to give perishables; the necessity for moving perishables in small lots, in less than car-load lots, while dead freights can be held until a car-load is ready to go, or small lots can be put into partly loaded cars and be held for that; perishables must go through whether the car is loaded to its full capacity or not, unless there are cars in the train into which the small lots can be loaded; the additional expense for prompt handling at junction points and for rebilling with a view of securing the despatch necessary; all this of course adds to the cost of transporting perishable freights; the speed of the train, the character of the cars and various matters connected with the handling of perishables makes it more expensive than the handling of dead freights.

Q. In making rates for perishables do you class oranges among perishables?

200 A. Yes.

Q. From your experience and knowledge in connection with railroads and freight rates, I will ask you whether in your opinion the division of the rate has anything to do with the reasonableness of the through rate?

A. It is not so considered. I do not think so. I think the matter was so held by the State commission, that the division had nothing to do with the through rate.

Q. Among traffic people is that the general view taken of it?

A. I think so, sir. That is my opinion.

Q. From your knowledge of transportation matters I will ask whether in your opinion 40 cents a box on oranges from Jacksonville to New York is a reasonable or an unreasonable rate.

A. By comparison with the rates on similar goods to other sections, I should think it a reasonable rate. The rate you refer to is given by the competition which exists from this point to the east. The weight per box of oranges is over 80 pounds; they run from 80 to 90 pounds; the rate is 40 cents, which is a half a cent a pound.

Q. Of course in that question you consider the nature of the product and the necessity for moving it whether loaded or unloaded, and the care and despatch necessary to be used?

A. I of course considered that. That is one of the very material points.

Cross-examination by Mr. COOPER:

Q. When you were asked the question as to whether the division of a through rate had anything to do with its reasonable-

201 ness, in further connection with that I will ask you whether an arbitrary exacted by one route or one transportation company in a line composed of several, cannot be so high as would make the total through rate too high?

A. I do not think that could be the case in the making of a through rate. The lines in interest must agree upon the through rate, that being the first thing done. Then among the several links of the chain an understanding is reached as to the division of the said rate.

Q. If a total through rate is reasonable, it does not concern any one outside of the companies composing the line how that rate is divided, but suppose one company is in a position to exact any arbitrary it chooses as a condition of entering into any through arrangement, is it not possible for that company by demanding an unreasonable arbitrary for its share to make the through rate higher than it ought to be?

A. If all the lines in interest demand an arbitrary, then there is really no through rate made. They are simply uniting their several rates, the rates of the several lines and calling it a through rate. The sums of locals would in that event make the through rate or a joint rate.

Q. Then the consideration of what rates are received by roads in the through line may in some cases affect the question of whether the total through rate is reasonable or not?

A. Certainly.

Q. In considering the question of what rates may properly be charged on certain classes of freights, you have mentioned some of the considerations which undoubtedly enter into the proper fixing of rates, such as the cost of service to the transportation companies and extra facilities that must be given to the traffic, etc. Is
202 it not also a fact that what the traffic will properly bear and of leaving a reasonable return to the producer enters also into a proper determining of the rate?

A. To some extent that is so, sir. The transportation companies, however, look first to a return to them for the work that they do.

Q. Is it not recognized as a fact and a rule of proper railroad management, even from the standpoint of railroad companies, that in making rates they should be such as to allow some reasonable compensation to the producer in order to encourage and keep up the business of the road?

A. I think that governs most of the roads, in fact all of the transportation companies, but the transportation companies do not undertake to guarantee a rate that would be profitable to the grower. The market supply and other conditions makes that impossible. If they did the transportation rates would fluctuate as the markets do, but I do not think that it has ever been considered in the making of rates.

Q. You do not mean that in making the rates the transportation lines do not consider at all what the traffic will legitimately bear and leave something to the producer?

A. No; I said in the beginning that they usually considered that.

Q. Then, in making a reasonable rate, as I understand you, there are two general things to be considered outside of the minor details that enter into the rate, and those are if possible to give the transportation companies reasonable compensation and also to leave to the producer a reasonable share of the receipts from the product that is transported?

A. That is usually the case.

203 Q. In speaking of a 40-cent rate to New York as being a reasonable rate by comparison, what comparison do you make there?

A. With the rail route to the West.

Q. Is it not a fact that the orange shipments East are much larger than the shipments West?

A. Yes, sir, I think so.

Q. In determining reasonable rates, is not the volume of the shipment one material thing to be considered, the amount of business that is done?

A. Usually, yes, sir; that has an effect upon the rates.

*Affidavit of C. D. Owens, Dated April 9th, 1892, Filed in Connection with His Testimony.*

STATE OF GEORGIA, }
*Chatham County.* }

Personally appeared before me the undersigned, a notary public in and for said county, C. D. Owens, who, on oath, deposes and says that in the testimony given by him in the case of The State Commission *vs.* Savannah, Florida and Western Railway Company *et al.*, there appears in the printed report of the stenographer, on pages 319, 320 and 321, certain inaccuracies, which from the text are apparent, and also a confused statement as to the rates inquired about, and as to the names of two different lines of transportation; *i. e.*, Atlantic Coast line and Atlantic Coast Despatch; on page 320, in answer to the question "No rate via Savannah and Atlantic Coast line?" the reply was, as reported by the stenographer, "Then it was not in existence, in 1883 the rate was 60 cents." This answer is susceptible of being misunderstood for the reason that in
204 1883 the Atlantic Coast line was in existence, but not the Atlantic Coast Despatch; and also on pages 321 in the report of the evidence, in answer to the question as to how long the 50 cents via Savannah and steamship remained in force, the answer should have been until "October 6th," instead of "October 15th," as reported.

That attached tariff of rates is a correct statement of the rates charged at the different times and periods therein stated, and is hereby submitted as a part of my evidence upon all points bearing upon the rates about which I was interrogated and as illustrative of my evidence already given.

C. D. OWEN.

Sworn to and subscribed before me this 9th day of April, 1892.
T. E. YOUMANS,
*Notary Public, C. C., Ga.*

205 & 206 *Memorandum of Testimony Taken Before Interstate Commission.*

Desired to be introduced by John E. Hartridge for the Savannah, Florida and Western Railway Company.

Testimony of W. H. Joyce, commencing on page 386, and cross commencing on page 395.

Testimony of Wi-bur McCoy, page 416, omitting that part of his testimony on page 418 except the last question, and omitting cross-examination on pages 425 and 426, and on page 429 to question by the chairman. Will also introduce his testimony on recall on pages 438 and 439.

Testimony of G. N. Sorrel, page 269 to page 357, inclusive.

Testimony of J. H. Stevens, omitting after question and answer one on page 357 down to first question on page 360, and continu-

ing from that down to page 364 and including all on that page but the last question and answer.

Testimony of H. Townsend, page 404 to 414 inclusive.

Testimony of H. Walters from page 369 to page 382 inclusive. Also his recall on page 415.

Testimony of C. D. Owens commencing page 317.

207 W. H. JOYCE, a witness on the part of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. LOGAN:

Q. Mr. Joyce, what official relation have you with the Pennsylvania railroad and the roads south of that, reaching to and south of Washington?

A. I am general freight agent of the line as far south as Quantico.

Q. General freight agent of the Pennsylvania railroad.

A. The Pennsylvania railroad, the Philadelphia, Wilmington & Baltimore railroad, the Baltimore & Potomac and the Washington Southern.

Q. The latter railroad stands for what was previously the Alexandria & Washington and the Alexandria & Fredericksburg roads?

A. Yes, sir.

Q. You are familiar in your office as general freight agent with this orange business and the history of it. Will you kindly state to the commission your knowledge of this business as pertinent to this inquiry?

A. It was in the autumn of 1888 that I was made general freight agent of the Pennsylvania railroad and other lines. For three or four years prior to that time I was freight agent in charge of rates. My office was in the same building as it is today. After my appointment, in 1888, on a number of occasions I brought to the attention of our connections south of us—south of Richmond—the exceedingly low rate which this traffic paid us, and in each subsequent year I insisted upon a higher rate. While I always agreed to them in the end, the agreement was always under protest. Prior to the recent advance, in last November, our rates to New
208 York, our proportion, I am speaking now of the line from Richmond to New York, was 11½ cents a box, or say 15 cents a hundred pounds from Richmond, which is equal to $3 a net ton. The distance from Richmond to New York is 359 miles. I can say quite positively that on the New York division, between Philadelphia and New York, where our average cost of moving freight is very high, it is very little less than three cents a mile per ton. The same is true of the P., W. & B. railroad, or a cent a ton per mile. For the lines south of Baltimore I am not quite so clear about that. Yet I was very confident that from the whole movement over our lines from Quantico to New York we did not get the cost of movement. Now, with traffic of this character we move at a higher rate of speed; we have but a small average loading, and we limit the number of cars for a train. Unless we can get more than the average cost per ton per mile for moving the traffic of the road it will

not pay us. The amount we did receive was not fairly compensatory for the service we performed. So that feeling every time the rates were discussed, we always agreed to them finally under protest. We recognized that the business was largely experimental, and we believed that after the line became an older, more established line, that we could receive a higher rate, and the revenue would bear the same relation to the general cost of moving the traffic. This orange train, with which we make connection with the Richmond, Fredericksburg & Potomac railroad, leaves Quantico, which is 276 miles south of New York, at 7.30 in the morning, getting on the New York side at 12.15 the next morning. The only other traffic with which we can compare it is our south and north bound business between New York and Richmond, which requires a movement of about 37 hours between New York and Richmond. This orange train has a maximum loading
209 south of Richmond of 20 cars to the train. North of Washington where we are enabled to move about 25. With a train of this character moving at a high rate of speed, and with a limited number of cars to the train, is not in point of value approached by any other train.

Q. The average of all traffic per ton per mile is how much?

A. On the New York division and the Philadelphia, Wilmington & Baltimore division I know it was over a cent a ton per mile. I think the statistics for the New York division and the P., W. & B. division are prepared separately and it indicates over a cent a ton per mile.

Q. What is the rate per ton per mile realized on the movement of this perishable traffic on the present advanced rate?

A. Thirteen cents a box is equal to about 16 and $\frac{2}{5}$ per cent. per hundred pounds, which, in round numbers, is about $3.20 a ton net. Three hundred and fifty-nine miles at 9 mills would make about $3.17, so it is 9 mills per ton per mile.

Q. Nine mills as against ten mills, the cost of the ordinary traffic?

A. Yes, sir.

Commissioner KNAPP:

Q. The cost to the shipper?

A. No; the cost to the railroad.

Q. That is, the actual cost of the movement of the average traffic of the road is over 10 mills per ton per mile, while the movement of this exceptional traffic realizes to us about 9 mills per ton per mile? Within what hours is this traffic over the lines of your company; just give the hours?

210 A. We run the train from Quantico to New York city in 16 hours and a half. We allow two hours for transferring from Jersey City to pier 29. That would allow us about 14½ hours for this 276 miles. This is about it, although I may be a little off in my calculations.

Q. What is the number of hours?

A. Sixteen and a half hours exactly from Quantico to pier No. 29 North river.

Q. The ordinary fast freight takes what time between the same points?

A. The ordinary freight will take anywhere from 48 to 50 hours. But our fast train, of which we are in some degree proud, between New York and Richmond takes 37 hours. Just about 37 hours.

Q. So that this freight is carried very much faster than the other traffic?

A. Yes, sir.

Q. Is that an expensive and difficult piece of road to the company, involving crowded terminals and intermediate throats, such as at Philadelphia and Washington?

A. Yes, sir; at Alexandria, Washington, Baltimore, Wilmington and Philadelphia; they are all the most crowded yards on our system, with the exception of Pittsburg probably.

Q. This traffic, then, has preference over all freight traffic?

A. Yes, sir.

Q. Can you give the number of cars that the trains have to be reduced to in this character of traffic as compared to the number of cars that an ordinary freight engine will carry?

A. On the lines south of Washington our maximum limit to this train is twenty cars. Under ordinary condstions we can move fifty or sixty.

Q. How is it north of Washington?

211 A. The maximum limit there is 25 cars. We can move 50 or 60, probably more.

Q. So that you reduce the trains about half?

A. Yes, sir, more than half.

Q. Well, do you regard this present rate as compensatory or not, the advance?

A. No, I should like to have more money on the traffic.

Q. What do you mean by "like" in that sentence?

A. That is what we are satisfied to go on with it for the present, as we are doing today, at the rates we are receiving now, but we ought to have more.

Q. Would you be satisfied at the other rate?

A. No, sir, decidedly not.

Q. Did you ever affirmatively acquiesce in the former rates?

A. I have always, as I said, when approached by our Coast Line friends—it was usually before the commencement of each season—as to whether we would participate, we protested against the low rate at which we carried the traffic. But they would answer and say we cannot give more than this in competition with the boat line; and, in the second place, this line is a comparatively new one and in the course of time the advantages which they enjoyed as compared with the water line would be such that you may get a rate that will be clearly compensatory. So yielding to those representations we went ahead with the traffic.

Q. Is there anything that occurs to you that you would like to say beyond what you have said?

A. No, I think not.

Cross-examination by Mr. COOPER:

Q. I understand your system extends as far south as Richmond?

212 A. No, sir, to Quantico.

Q. That is north of Richmond, I suppose? I am not familiar with the geography of that country.

A. It is 81 miles north of Richmond.

Q. I listened to your testimony and I understood it throughout to apply very properly to what you received for moving oranges. Did I understand you to express any opinion upon the through rate for 1,075 miles from Jacksonville to New York?

A. No, sir.

Q. Have you figured what that amounted to a ton a mile under the old rate?

A. It is about one cent or under. I never figured it.

Q. Did you ever figure it under the new rate?

A. No, sir.

Q. In the opinions you have expressed you have given no opinion as to the reasonableness or otherwise of this rate as a whole, but simply your portion of it?

A. That is the only standpoint from which I can give it.

Q. Is it not a fact that the lines from Savannah to Richmond receive a larger proportion of the through rate than the lines north, or how is that?

A. I never figured that out very closely, but my impression has always been that if there was any difference in respect to the orange rates the difference is very small.

Q. I have figured it down here. It makes the proportion received by the Charleston and Savannah line in 1889, Charleston to Richmond one cent, Richmond to New York .94 of a cent.

A. I made my figures while sitting here, so I may be slightly mistaken. I said it was about nine mills and it seems to be .94 of a cent.

213 Q. You received a little less than the line between Savannah and Richmond?

A. Yes, sir.

Q. You perform terminal services at New York, do you not?

A. Yes, sir. In the end that is equalized to some extent in the very excellent shape in which this traffic is tendered us by the Atlantic and Coast line. Our connections at Richmond. They classify the trains. The freight for New York is nearest the engine, then Newark, Philadelphia, Wilmington, Baltimore and Washington, in the order I have named.

Q. Of the through rates *of* the Savannah, Florida & Western receive for the 172 miles, 2.6 cents per ton per mile?

A. Yes, sir.

Q. Now your testimony has been directed to whether or not the proportion that you received was excessive. I will ask you whether the through rate, as a whole rate, could not be equitably reduced if the Savannah, Florida & Western received less out of the through

rate? I do not ask you as to what it ought to be, but as to whether it is a fact, as far as you are concerned, north of Richmond and the other roads to New York, if it could not be made profitable, carried on without loss at a lower rate if the Savannah, Fla. & Western did not receive as large arbitrary to Savannah as they do? In other words, if you received more of the through rate?

A. You know Philadelphia is about 900 miles away from Savannah, and I am not familiar with the Southern business. If I were in their place I would probably do just as they do.

Q. I did not ask you that. What I asked you was if your
214 road were allowed a larger proportion out of the through rate could not you do the traffic profitably without raising the total through rate.

A. At the old figures?

Q. Yes, sir.

A. No, sir.

Q. What do you receive now per ton per mile?

A. Under the present rates we receive about 9 mills.

Q. Well, the total through rate heretofore, as I figure it, was a cent per ton per mile before the raise was made. So if this is correct you do not receive as much now as you would have received under mileage basis before?

A. That is quite possible.

Q. Might there not have been some reduction of the amount received by the short lines to Savannah and yet from the old rates you receive as much as you receive from this new rate?

A. That is largely a question of figures.

Q. I merely called these conditions to your attention. You limit your expression of opinion to your own portion of the lines, not as applicable to the total through rate. You spoke of extra speed and train facilities. Do you publish any schedules or make any contracts by which you guarantee extra speed in this orange traffic?

A. I do not. We do not publish any for this business. Those are published by the other lines.

Q. Does that fast train carry anything else besides oranges?

A. At the beginning of the season we may put on another car which does not interfere with the oranges.

Q. If anything else can be carried, any solid car, you take it.

A. Yes, sir, if it does not interfere with the oranges.

Q. You said something about protesting from season to season. Is that in regard to the proportion you received or the total freights?

215 A. Necessarily the proportion. *We* rate we actually receive, our compensation.

The CHAIRMAN: Do the officers of this fast dispatch that you have spoken of make a report to you of the whole business of that line?

A. No, sir.

The CHAIRMAN: They make no report to you?

A. If I wanted to get any knowledge of that business I would ask the accounting department. These officers of this line do not make

any report to any one connected with the Penn. railroad, but if I should personally want information as to this business I would apply to the accounting department for information.

The CHAIRMAN: From whom do they obtain it?

A. Everything which comes from Richmond, business of this character, oranges or perishable freight, we know immediately it comes from the Atlantic Coast line. That is the only line that contributes it.

The CHAIRMAN: Then you just settle through your accounting department and keep no account of the business you do with the fast freight line?

A. Yes, sir.

The CHAIRMAN: And expect no report to your company or anybody else from that line?

A. Yes, sir.

The CHAIRMAN: You have no means of knowing anything about the whole business?

A. No, sir.

The CHAIRMAN: Or what the cost is or what the revenue is of the whole line as such?

A. No, sir; it is not a co-operative fast line such as many lines like the Canada Southern and other lines with which we are familiar and which are purely co-operative and who have
216 their own offices and accounting departments, etc. There is no organization of that sort.

Q. Is this line simply a name?

A. Yes, sir.

Q. And you receive this traffic on you- line with the general understanding you would settle as with other roads?

A. Yes, sir. It is a trade name.

Q. You tell your connecting lines you will take traffic up this way and participate in the rates?

A. Yes, sir.

Q. That is all.

WILBUR MCCOY, a witness on behalf of the defendants, being duly sworn, testified as follows:

Direct examination by Mr. ERWIN:

Q. What is your present position?

A. General freight agent of the Fla. Southern road.

Q. How long have you held that position?

A. Since Feb., 1887.

Q. Give the location of the South Florida railroad.

A. The main line extends from Sanford to Tampa.

Q. Your main line is how long?

A. 150 miles.

Q. And with the branches what is it?

A. 260, I believe.

Q. What are your gross earnings per mile per annum?

A. For one year, 1890, about $2,000 per mile.

Q. How does that compare with Fla. railroads generally?

A. I think it is more than some and probably equal to any.

217 Q. Are there any Fla. roads that have larger earnings than that?

A. They may have had some years but will not average as high as that. Possibly some parts of their lines may.

(Omit till last question on page 418, original copy.)

Q. Are you an orange-grower as well as a railroad man?

A. In a small way, yes, sir.

Q. What is the size of your grove?

A. 20 acres.

Q. Did you sell your oranges this year—1891?

A. Yes, sir.

Q. Did you sell them on the tree?

A. Yes, sir.

Q. What did you get for them?

A. $1.50 a box on the trees.

Q. That is the amount that you got for them and you had no further expense?

A. Yes, sir.

Q. Is that an unusually high price for oranges?

A. Well, I have known instances where that amount has been paid, but as an average it is high.

Q. What is the average price on the trees?

A. It depends a great deal on the locality and quality of the fruit. Last year, the previous season, the average was probably about $1.10 a box, 90 cents to $1.50.

Q. What would you say is the average this year—1891?

A. The average this year would be about from $1.50 to $1.60.

Q. Very much higher?

A. Yes, sir.

Q. Do you know of an instance where $2 have been paid?

218 A. Even more than that.

Q. Is orange-raising a profitable business?

A. That depends entirely upon how it is carried on. If a man understands his business and gives it his time and attention, I would say yes.

Q. The increase of the value of the grove compared to the increase of the age of the tree, is that great?

A. It is pretty hard to determine the comparison. I should say it increases with the age of the trees.

Q. How old is your grove?

A. My grove, the first trees were planted in the spring of '82. I have planted out at different times. I only planted 300 trees at that time.

Q. Did you set out by seed or graft?

A. About a year-old buds or two-year-old stocks.

Q. How many boxes do you suppose the trees will average in Florida?

A. That is a pretty hard question to answer. It depends upon

the age of the tree entirely. I should say that a full-bearing grove that is given time and attention and treated properly ought to average 6 boxes to the tree.

Q. How many trees to the acre?

A. They are set in different ways. Sometimes 30 feet apart, sometimes in diamond shape and sometimes in squares.

Q. What would be the average?

A. As a rule about 25 feet apart; if in squares there would be 68 or 69; if in diamond shape probably about 77.

Q. Probably average somewhere about 70?

A. Yes, sir.

Q. One witness here has testified about the unusual size of the oranges. What is it that produces that?

A. That is due to various causes. There are certain chem-
219 ical elements in fertilizing that will produce it. Lots of ammonia will do so. My experience will not warrant me in giving an opinion about that, however.

Q. Do you give through bills of lading?

A. Yes, sir, to any points to which we have through rates made up.

Q. You make that by adding the local rate from the basing points to the through rate?

A. Not always the local rate. The Fla. lines have joint rates from the basing points. It is where the locals make the lowest combinations they are used, but not otherwise.

Q. How long does it take orange trees to become good bearing trees from the seed?

A. Well, there is a vast difference of opinion as to that. So many elements enter into it. I have known seedling trees to bear crops seven years and other groves take eleven or twelve years and bear very little.

Q. That is rather an unusual thing is it not?

A. I think it is. I think as a rule trees bear from seed earlier than that. They do down in my country.

Q. About how old do they have to be?

A. It will probably take 8 years for them to bear much of a crop.

Cross-examination by Mr. COOPER:

Q. That you sent out on the 13th or 14th?

A. No, sir, on the 12th.

Q. When did you send out that to be posted?

A. That was simply a notice sent by wire to all agents and they were instructed to post it.

The CHAIRMAN: You spoke of 6 boxes to the tree. What age tree do you make that estimate from?

220 A. I should say from seedling trees, trees anywhere from 12 to 15 years old. A great many trees produce more than that.

The CHAIRMAN: What is the bearing life of a tree?

A. I do not think any one has lived long enough to find that out. Without being attacked by insects or disease, I think, as a rule, the opinion of orange-growers is that the longer a tree stands

the better the fruit and the more of it. It certainly holds that the quantity is as great and the quality as good. I know one grove of trees in this State that is over 50 years old.

Mr. IRWIN: How old did you say?

A. It is known as the Spear grove; it has about 550 trees and is over 50 years old.

Q. What is the condition of that grove now?

A. I do not know how it is right now, but as I passed by it looked all right.

Q. You answer about the life of a tree, of course, depends upon nothing hurting it during that time?

A. Certainly.

Mr. COOPER: Are you a Floridian?

A. I have been in the State 9 years.

Q. How many killing freezes have you known of since you have been here?

A. In 1886 is the only freeze in our part of the country that killed trees. I have never suffered from it at all. I am extraordinarily favorably located, however.

Q. Have you known of trees being either injured, or fruit lost or injured by a freeze at any other time?

A. In 1886 the oranges were frozen on the trees.

Q. Besides 1886 has not that happened before, and since that fruit has been injured?

A. I have understood so from newspaper reports. I have seen in passing that in some localities the fruits were damaged by frosts.

Q. Were you here in 1881?

221 A. No, sir.

Q. You do not know about the trees in 1881?

A. No, sir.

Q. How many boxes did you sell at $1.50 this year?

A. I had only about 250 trees bearing. I had about 240 boxes.

Q. Is not 6 boxes a pretty high estimate for any average bearing?

A. I am basing my estimates on the groves of practical men, who give it their time and attention. Six boxes for some groves would be entirely too much.

Q. Then six boxes is the average with extra appliances.

A. I do not think it is.

Q. I thought, perhaps, you had reference to General Sanford's groves, where there was a great deal of capital at command.

A. I know of many people who raise more oranges to the acre than General Sanford.

—. That is all.

Mr. McCOY recalled.

Mr. IRWIN:

Q. Who does the loading of these orange trains?

A. Some by the railroads and some by the shippers.

Q. The railroad is always ready and willing?

A. Yes, sir; at regular stations that is done, and at flag stations we help.

Q. Why is it that the shipper has to load himself?

A. Many growers have their own packing-houses at stations. Of course, we do not propose to load anything not delivered to us at our stations. Many packers, also, have ideas as to how they want the goods placed in car.

222 Q. It is for personal convenience, then?

A. Yes, sir.

Q. The railroad is always ready and willing to load?

A. Yes, sir; but we never go out to the packing-houses to do so; it must be brought to the station.

Q. Is it not true that car-load lots are loaded by shippers, and only miscellaneous packages are loaded by the railroads?

A. Not unless they so desire. It is all the same for car-loads and less than car-loads.

Q. I was speaking of the fact?

A. No, sir.

The CHAIRMAN: Well, I suppose we are through now. What course will you take in the case now?

C. D. OWENS, a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. ERWIN.

Mr. ERWIN: Mr. Owens, what is your present business?

A. Railroad traffic manager of the plant.

Q. How long have you held that position?

A. I have held that position since 1884.

Q. What was your business prior to that time?

A. I was connected with the traffic department of the road, and have been since 1866.

Q. What portion of that time has it been your duty to look after oranges and the transportation of oranges and their rates?

A. My duty prior to 1884 was mainly to look after the pro-

223 curement of business South. Since 1884 I have attended in a general way to the making of rates over the system, several times by agreement with other lines and at times meeting the rates as fighting or war measures.

Q. You commenced in 1884 to be traffic manager. What was the prevailing rate at that time on oranges to New York via Savannah and steamship? Have you a tabulated statement of that?

A. I think I have. You asked for the rate in 1883. That was 50 cents a box by Savannah and steamship.

Q. At that time how many routes were there to New York? Was the Clyde line on?

A. The Clyde line made connection from the port of Fernandina in that year, but did not run their steamers direct from Jacksonville.

Q. Was the Mallory line on?

A. The Mallory, the Clyde and the Ocean Steamship.

Q. But they did not go into Jacksonville?

A. No, sir; not that year.

Q. There was no Atlantic Coast Despatch line, that is, all-rail to New York?

A. No; by the Atlantic Coast Despatch line the first rate dates from 1887.

Q. When was the Atlantic Coast Line rate put up?

A. The first rate bears date of 1883.

Q. So that commencing with the year 1884 your connection with the road at the time you became traffic manager, the rate then to New York via Savannah and steamship was 50 cents?

A. Fifty cents.

Q. Via Savannah and Atlantic Coast line was how much?

A. Forty cents; no, they did not have that rate in 1884.

224 Q. No rate via Savannah and Atlantic Coast line?

A. Then it was not in existence. In 1883 the rate was 60 cents.

Q. And the Atlantic Coast Despatch, the all-rail route, you did not have at that time?

A. No, sir.

Q. You commenced to be traffic manager in what month in 1884, do you recollect? Was it prior to the fall of 1884?

A. I think it was in the fall of 1884.

Q. It was continued via Savannah and steamboat to New York 50 cents until what time?

A. Until November 30th, 1886.

Q. The rate remained 50 cents via Savannah and steamship to New York until what time?

A. Until October 6th, 1884.

Q. Then it was changed to what?

A. Thirty cents.

Q. What caused that change to 30 cents a box?

A. That was due to some trouble between the Florida Central & Peninsular and the Savannah, Florida & Western roads. It grew out of a disagreement between these lines.

Q. How long did it last?

A. According to my recollection it was until January 12th, 1885, the time it went up to 40 cents.

Q. And the rate remained at 40 cents how long?

A. Until November 1st, 1886.

Q. Well, then, in November, 1886, it got down to 30 cents again?

A. Yes, sir.

Q. What was the cause of that?

A. The Clyde has decided to put on a steamship at Jacksonville and put on the Charleston rates into Jacksonville.

225 Q. What do you mean by that?

A. That is where he would charge 50 cents first-class southbound merchandise to Charleston he would also charge the same rate to Jacksonville.

Q. What was the rate to Charleston?

A. Prior to that new steamer we were observing the same rates. Every steamer stopping at Charleston and going on to Fernandina. We had been running on an agreed rate. That is, we observed the same rate.

Q. He commenced by announcing that he would use Charleston rates to Florida?

A. Yes, sir.

Q. What did you do then?

A. Anticipated the rate before the ship arrived. I got the rate down to 50 cents, first-class merchandise.

Q. That change was made in November, 1886. Now from November, 1886, until 1890, that 30-cent rate prevailed in New York?

A. Yes, sir.

Q. Now, during these periods was there any general depression of business caused by yellow fever or other causes?

A. Yes, sir, we had considerable depression over the whole State of Florida. The January freeze of 1886 had demoralized matters. First we reduced the rate to 30 cents on oranges and the freeze got us at that rate. Now it was not supposed after that freeze that it was either good judgment or that the product could bear it to raise the rate, and that we had better stand and carry the business at the rate even although we could have gotten together and raised the rate on oranges just as on the merchandise business. But we waited to see what its effect would be. It was soon seen that in fact the crop was larger than it ever was before. From recollection
226 I would quote it at a million and a half boxes. It never had gone that high before.

Q. The next thing that depressed business in Florida was what?

A. Yellow fever.

Q. In what part of the State was that?

A. That is a great question. As to the particular place it started I would not like to say. I would not like to give any opinion about it.

Q. I mean in what section of the State, northern part or southern part?

A. Well, sir, it spread.

Q. When did it commence?

A. In 1887 there was a rumor of yellow fever and there was more or less quarantine.

Q. It started in 1887 and lasted through until what time? In other words, you had yellow fever about what time?

A. I do not bear that in memory.

Q. In what year?

A. 1888.

Q. Some time in the summer or early fall?

A. It was in the early fall. It was declared off on the 10th of December, 1888.

Q. What effect did that have on the business generally in Florida?

A. Most depressive. I think I came here among the first, and it was very hard to get the people here to talk about anything else

but that. My business was to get them to stop talking about funerals, so I got up a banquet and got rid of this yellow-fever depression to some extent.

Q. In the face of all that, was it considered wise to raise rates on oranges?

227 A. It certainly would not be so considered. It would be looked upon from a political point and looked upon as a piece of hardship. Now, at various times we desired to raise the rates on oranges but could not do so. In 1886 it was the freeze. In 1887 and 1888 it was more or less the yellow fever, and we did not think it good judgment to raise the rate then. Our road was insisting that we should raise the rate. The trafficmen were objecting to the raise of the rate. Our people were confronted with the fact that they were earning no money and had to look to the sources of revenue. Our owners were confronted by the fact that they had large investments and were making no money. Owing to the rivalries between the separate lines, the Mallory, the Clyde and the Ocean Steamship line, the rates had run down very low and among the remnants of the fight was this 30-cent rate. Our owners directed us to raise the rate that we had been opposed to at the time.

Q. For what reason?

A. Simply due to the troubles in the State and knowing it would cause considerable trouble. But our owners said to me, Where do you propose to get revenue? We had been paying out a large amount in carrying out this traffic. If by any inadvertence on our part or delay owing to the carelessness of our servants we immediately have a loss to pay. Where an article is non-perishable we may lose sight of it for a week and it would make no difference, but where it is a car of oranges that is lost sight of for a week or two weeks, we have to pay damages.

Q. Suppose the car gets to Savannah and just misses the steamer and is due to a delay on your line?

A. We forward it by all rail sometimes. We have to pay the difference in the rate. That occurs where fruit comes to us consigned to Philadelphia and is too late for the steamer. That

228 was the past season. This season the Ocean Steamship takes freight going by rail to New York and sends it back from there.

Q. There is more or less loss in this perishable business?

A. Yes, sir.

Q. Was that 30-cent rate a remunerative rate?

A. I think that is more a question for others to decide than myself.

Q. Of course the commission have to decide. I want your opinion on that subject?

A. Well, I really do not think it was a remunerative rate. The raise would not have been put off except for the causes I have given.

Q. Were you present at this meeting Mr. Colhoun speaks about?

A. The meeting of August, 1889? Yes, sir.

Q. Was Mr. Colhoun in favor of raising the rate?

A. He gave us notice that the roads in Florida, the producing roads, had a petition at Tallahassee asking the commission to raise their rate, averaging on classes, from 12 to 15 cents, about 35 per cent. on vegetables and on oranges and lemons, putting us on notice that the roads in Florida must get higher and better rates.

Q. Did the commission raise these rates? The Florida State commission?

A. I forget. I do not bear it in mind.

Mr. COOPER:

Q. It is a fact that they did not?

A. I do not bear it in mind.

Mr. ERWIN:

Q. I am speaking about what Mr. Colhoun said at that time.

229 A. Mr. Colhoun believed in concerning bringing his wife's relatives to the front. He wanted to raise his own rates but did not want to raise ours.

Q. He had been persistent in that position, had he not?

A. Yes, sir.

Q. Do you furnish any trains known as orange trains?

A. Yes, sir; that schedule was made up on purpose for perishable fruits and known as numbers 208 and 209. Number 209 was expected to do the south-bound business and the return of it would be number 208. It was solely for perishables. They are very expensive to handle in that way. The trains have to be made up in a certain way; for instance, take freight for New York; that must be right in front, just behind the engine, and then next comes in their order the Eastern cities. If one car should get in the wrong place you may lose your connection. The Pennsylvania railroad issued their orders that the cars must be put in the regular order. It compares with their other freight service just as their fast mail does with passenger service. We have got to make it up and we cannot have any mixed loading in the cars. We must have each car separate and fixed up just exactly right. We have spent, and will continue to spend, a great deal more money for that service than other freight. We have got to have better facilities than we have now.

Q. Has there been any increase in platforms and storehouses on account of this business?

A. There is an increase at Jacksonville and at other points. It requires an immense number of hands to properly sort and handle this freight.

Q. You have several sets of hands for that purpose?

A. Yes, sir.

230 Q. They have to wait around until the train comes and then go to work on it?

A. Yes, sir.

Q. Where the oranges go by the Ocean Steamship Company you transfer them at what is known as the Junction branch of Savan-

we had the frost, in 1887 and 1888 we had the epidemic. It is simply a matter of what a man would like to do to please his patrons. I thought it was bad judgment to raise at that time. But we still had this discussion in 1889 and we could not agree about it.

Q. As I understand you, then, according to your view of the circumstances, the first good year we had in Florida for the last five years you put up the rates?

A. I did not put it that way. I stated the reason why it was advanced.

Q. Was it not a fact that during all these times you have testified to, the rates on oranges north by the various lines were made by agreement or by an understanding, if you choose to express it that way?

A. Yes, sir; and at times by a misunderstanding I made it lower than they ought to have been in consequence of the misunderstanding.

Q. During the four years that they remained at 30 cents it was by agreement of all the lines?

234 A. I do not say agreement, I made the rate 30 cents and in 1887 we held to it.

Q. Has it not been the habit of the railroads to agree together and make rates each season?

A. Generally, when in accord.

Q. You stated, as I understand you, that the increase in rate was justified because you were not making money and had to get it from some source?

A. The traffic, according to the opinion of the owners and managers of the property, was unprofitable. The rates had to be advanced for that reason.

Q. Have you any knowledge, speaking of your own portion of it now, the Savannah, Florida & Western and its arbitrary, of 18 cents, no matter how it goes—from what information do you speak when you say that the traffic is not remunerative? Let me direct your attention to what I want; is it not a fact that the Savannah, Florida and Western railroad pays good interest on all of its invested capitals?

A. I do not think I am called upon to reply to that. In a general way I would say it does not, inasmuch as we are not a dividend-paying road for some time past. We pay interest but no dividend.

Q. I read from a memorandum I got here from the Interstate Commerce Commission in which I find that the road upon all its capitalization, exceeding $24,000 a mile, pays nearly five per cent. interest. Have you ever looked at those figures?

A. That is not in my department.

Mr. ERWIN: What do you say that is, Mr. Cooper?

Mr. COOPER: The statistics made up in 1889.

235 Q. When you speak of the road not being remunerative, do you know what it is capitalized at?

A. No; not from recollection.

Q. I merely wanted to get at what your basis was in saying you had to raise the rates on a staple article to make the road remunerative. Then it was from no knowledge of your own as to what its capital was, or what its general net revenue was?

A. I based that on the fact that the owners said it was not remunerative.

Q. You have nothing to base it upon except the owners' desire to raise the rates?

A. I desire to sometimes myself. I tried to get it raised once myself.

Q. You were asked what Mr. Colhoun's position was at a meeting of the freight agents or traffic managers, discussing this proposition of raising the rates, and you stated; if you have no objection to stating what your own views were, will you tell us whether you favored or opposed the rates at that time?

A. At that time I objected to the raise of rates.

Q. You mean when this present advance was under consideration, before the presidents took it up?

A. I did not think it a good scheme to raise rates. There were formal differences between our road and others.

Q. As I understand you, then, the recent raise of rates was against your judgment. Is that so?

A. In a measure, yes, sir. At that time I was opposed to the raise. But I beg leave to say that I was mistaken at that time.

The CHAIRMAN:

Q. What are your reasons for saying that?

236 A. It was not on the question of the value of the property. The reason why I objected to it was that there was a competing line finished through from Macon to Palatka, and I thought we would suffer a considerable loss of business if we raised the rates then. It was not as to the justice of the raise, but as to the policy of raise that caused me to object.

Mr. COOPER:

Q. You have spoken of orange trains from Jacksonville. Is it not a fact that those trains carry any freight?

A. Those trains do not. No. 208 does not carry anything but oranges or perishables. It does not stop at all after it leaves Waycross. We take freight in here and at Callahan.

Q. Does it take anything from Jacksonville?

A. If there is a solid car we take it from Jacksonville. But nothing from Jacksonville except fruit.

Q. You spoke of the disposition of cars at the junction. Is it not a fact that cars of oranges shipped north on the all-rail line, loaded cars, are simply taken and transferred at the junction point and without being switched around the freight yard?

A. Sometimes those cars have to be reloaded, and it puts us to great expense. The Coast line complained very bitterly that a great many of the cars are not loaded as they should be, and they

had to remedy the deficiency. In that case that car would be cut out and would lose connection until the next day.

Q. Unless you make up the trains incorrectly before you deliver it to your connection north, all the roads north of you simply take it at junction points and haul it through?

A. Yes, sir; that is a fact.

237 Q. You have spoken of your expense in handling oranges at Savannah; is it not a fact, no matter by what route oranges go north, that you charge a transfer fee at Savannah of four cents a box?

A. We do not charge that, sir. That is part of the service. It is charged up as a whole and goes over two properties, in fact onto a third in Savannah. The divisions of the rates are so made as to show the charge for the transfer service.

Q. Now, suppose the car goes from Jacksonville via the steamer, you get four cents for the transfer?

A. No, sir; I get my proportion of that four cents, which amounts to about one cent.

Q. There is a charge at Savannah?

A. It is in the total rate. In the division of that rate.

Q. There is taken four cents for the transfer at Savannah?

A. Yes, sir.

Q. You speak of being traffic manager of the Plant system. Of what does it consist?

A. The Plant system, of which I am traffic manager, consists of the Savannah, Florida and Western railway, the Charleston and Savannah railway, and A. M. railway, and the Brunswick and Western railroad.

Q. Does not all that transfer charge at Savannah go to the Plant system?

A. Only one cent.

Q. Where does the rest go?

A. It is divided between the Central railroad and the Ocean Steamship Company.

Q. The Ocean Steamship Company is connected with the Savannah, Florida and Western?

A. By agreement, I make some of the rates of the Ocean Steamship Company.

238 Q. Is it not a fact that it is a dependant of the Savannah, Florida and Western railway?

A. No, sir.

The CHAIRMAN: Mr. Cooper, we will now take a recess until half past two.

AFTER RECESS—2.30 p. m.

The CHAIRMAN: Gentlemen, we are ready to proceed with this case. Mr. Owen will please resume the stand.

Mr. COOPER: I believe I have no further questions.

Mr. ERWIN:

Q. What has been the policy of the Savannah, Florida and Western railway in regard to the State of Florida?

Mr. OWENS:

A. In what way?

Q. In regard to rates charged?

A. The Savannah, Florida and Western has always recognized the necessity of having extremely low rates on the necessaries of life, and that the State being a new State and being settled under process of development, that they should have the very cheapest rates on the necessaries of life.

Q. Take flour, for instance; is there any wheat raised in Florida?

A. None, sir.

Q. The rates on flour to points such as Jacksonville, for instance, are the same as to Savannah?

A. We insisted on that being done. We determined that
239 the rates on the necessaries of life, meats, breadstuffs, grain and hay, should be at the very lowest possible rate, and when the rates were made to the South Atlantic ports, Fernandina and Jacksonville, were higher than Savannah. We insisted on the same rates into Jacksonville and Fernandina as pertain to the ports north of it.

Q. You said something about rates being made prior to this year by agreement among the lines. Will you state whether the Pennsylvania railroad or the Atlantic Coast line has ever been a party to such an agreement?

A. They never were. They named their own rates and we tied to them, they giving us our proportions by the short line. The short line made rates via the steamships.

Q. Besides the competition immediately in Florida as to oranges when you reach Savannah the business is again competitive there?

A. Exactly. As between the all-rail line and the steamships, the Savannah, Florida and Western gets its proportion by the short line, which is the steamship line.

Q. And in fixing the proportion through regard is had to the additional expense that the road has as a gathering road, and in making up the trains?

A. It is conceded by all the lines that we have the greatest burden to bear in the loading and billing of that freight.

Mr. ERWIN: That is all.

Mr. COOPER:

Q. You say that the Savannah, Florida and Western is engaged in fostering the State of Florida. Do you not understand it is as necessary to give reasonable rates on exports as imports?

A. We are doing so.

Q. Is it not a fact that the Savannah, Florida and West-
240 ern out of the through rates demands 18 cents to Savannah?

A. That is the proportion which it makes by the short line, and applies, also, to the rail connections. It is an axiom recognized by all the transportation people that a line is entitled to the proportion of the rate made by the short line.

Q. When you speak of the Savannah, Florida & Western insist-

ing upon low rates of freights from the North to Jacksonville as compared with Savannah, is it not a fact that the Clyde Steamship at Jacksonville, and the Mallory Steamship at Fernandina conflict with your connection by the Ocean Company at Savannah?

A. It is the rate by all-rail from the West and Northwest that I immediately alluded to. Those rates were very much higher to Jacksonville than to Savannah.

Q. You were referring to the Northwest?

A. I am alluding to the grain-producing section of the country.

Q. Is it not a fact as to that trade that you compete with the Florida Central & Peninsular and the Louisville and Nashville?

A. Our rates were made before the Florida Central and Peninsular and connection by Louisville were formed.

Q. Your Western rates are, however, competitive with that system?

A. They are; they are alike by both lines. But the reduction was made by the Savannah, Florida and Western.

Q. The Savannah, Florida and Western give no lower rates than the other system?

A. All the lines would necessarily be compelled to accept the rate made.

241 Q. I do not know that I quite understood you as to the statement about the all-rail. I understand you to say that they were made or fixed by the northern connections, and you accepted them?

A. No, sir. They were made to this extent: They named their proportion of the rate that they wanted from Savannah north. The Atlantic Coast line, for the purpose of being a line, the Charleston and Savannah road is a joint partner with them from Savannah north, and the rates are named by the lines north, and their proportion being a fixed amount we get whatever the short line via the steamship gives us.

Q. Is it not a fact that your proportion of the total on oranges per ton per mile to Savannah is better than that received by the lines north?

A. That is true.

Q. Is it not also true that the lines from Savannah to Richmond receive larger proportions than from Richmond north?

A. That possibly may be so. I have not seen those divisions. That is a matter of indifference to us.

Q. You take your arbitrary of 18 cents to Savannah, however?

A. Whatever the through rate gives us.

Mr. ERWIN:

Q. The Savannah, Florida and Western has a line from Dupont to Gainesville, has it not?

A. Yes, sir.

Q. How are the earnings, large or small?

A. Very scant.

Q. As high as two thousand dollars a mile per annum?

A. Not as high as that.

Q. The line between Jacksonville and Waycross, has it any local business?

242 A. Very slight. Most of the business along there goes by the St. Mary's river.

Q. What is the rate per ton per mile by the Savannah, Florida and Western?

A. It is a fraction over nine mills.

Q. I mean the amount of money earned per mile per annum by the Savannah, Florida and Western?

The CHAIRMAN: Their reports will show that.

Mr. OWENS:

A. From memory it is about $5,000 per mile.

The CHAIRMAN:

Q. You spoke about what the short line will allow you. Now what is the short line—the Clyde line?

A. No, sir; I am speaking about our short-line connection, which is the Ocean Steamship Company from Savannah.

Q. You speak of what they allow you. Does the short line make the inland rate for you?

A. No, sir; the short line have left the making of rates from and into Florida to the Savannah, Florida and Western railway.

Q. Then you make the rate?

A. Yes, sir.

Q. What you said before would lead to a different impression.

A. Whatever that rate makes it is under an agreed division. We receive the same from connecting lines.

243 J. H. STEVENS, a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. ERWIN:

Q. You are agent of the S., F. & W. railway at this place in 1891?

A. Yes, sir.

Q. Do you know how the orange business is conducted here, as to whether there is any preference given to them as freight?

A. Most decidedly.

Q. Is there any expense incurred in handling that here?

A. Yes, sir.

Q. What is it?

A. We keep a large force of men sufficient to transfer in time. Usually transfer has to be made within from one to three hours, and we endeavor at all times to forward everything tendered us by our connections and also local shipments.

Q. Have you a special train for perishables like oranges?

A. We have No. 208.

Q. What is the rule about that train?

A. That train is made up exclusively of cars containing perishable freight; that is, if there are cars sufficient of that character for

its capacity. If its capacity is not filled and we have car-loads of other freight, we put it on that train.

Q. But oranges always have the preference?

A. Always.

Q. Do you know the speed of that train between here and Savannah?

A. About 17½ miles an hour.

244 Q. Jacksonville, I believe, is one hundred and seventy-two or one hundred and seventy-five miles from Savannah?

A. Yes, sir.

Q. You make that distance in about 10 hours?

A. Yes, sir; a little more.

Q. I believe that is all.

Cross-examination by Mr. COOPER:

Q. You speak of extra expense here. The Sav., Fla. & West. road receives the orange freight here in car-loads from other roads from the South?

A. No, sir; I would state that about 60 per cent. of the orange crop that is handled at Jacksonville that is delivered to us on the platform has to be assorted, loaded and billed.

Q. That is by river?

A. I mean the entire business handled at Jacksonville from all connections.

Q. Well, in speaking of the extra diligence in getting this fruit off, the rapid movement of the cars, is it not a fact that in the busy season, in the orange season, to utilize your space and also to keep your tracks clear you have to exert yourself to keep your freight moving?

A. Well, yes, sir.

Q. You spoke about this train No. 208, is it not a fact that oranges are moved by other freight trains besides that?

A. Yes, sir.

Q. I did not quite get what you meant about oranges not being received here on Sunday.

A. I said we did not receive any local shipments; that is to say, from dealers in Jacksonville, as a rule, we do not receive or

245 expect to receive any business of that character on Sunday.

Q. You do not receive any local shipments?

A. It is only from connections that we receive on Sunday.

Q. It is only from connections you receive on Sunday?

A. Yes, sir.

Q. That is all I believe.

Mr. ERWIN:

Q. How does the speed of that train compare with the usual freight trains?

A. It is about 50 per cent. or 60 per cent. faster.

Q. And what preference has it in moving over freight trains? Do other freight trains have to get out of its way?

A. It is first class; it has preference over all other trains of that class; over all other freight trains, and in fact over passenger trains, except fast-mail service.

Mr. H. TOWNSEND, a witness on behalf of the defendants, having been duly sworn, testified as follows:

Direct examination by Mr. LOGAN:

Q. What is your office in connection with the Penn. railroad?
A. Agent in New York.
Q. In charge of what?
A. Pier- 27, 28 and 29.
Q. What is your knowledge of the perishable freight moving from the South?

246 A. As soon as the freight arrives in Jersey City with respect to New York delivery, it is given the right of way over all other freights; it is loaded immediately from pier 29; the labor that we have detailed at that station has directions to stop work handling all other freight and give that particular freight especial attention; distribute it around the pier.

Q. Is there a pier that is devoted to that traffic exclusively?
A. Yes, sir.
Q. What pier is it?
A. Pier No. 29. About 20,000 square feet.
Q. What is the rental of that pier, do you know?
A. No, sir, I cannot say. I know we pay for piers 27 and 28 $50,000 a year; I do not know the rental of this one.
Q. What is the quality of this pier as compared with Nos. 27 and 28?
A. It is superior. The shedding of this pier was paid for by the company. I think the cost of the shed alone was $45,000 outside the question of rentals.
Q. Now describe how does the traffic come there; what course is taken after it gets to the pier?
A. The cars from the opposite side of the river are run on the floats. The floats run from 150 to 200 feet along and about 34 feet wide, carrying from 6 to 8 or 10 cars. There are receiving doors alongside the pier and we open two doors or four doors for the freight. We can only work from one side. The fruit in unloaded into what are called the consignees' stores which we give to the trade there rent free. Each package is distributed to these various stations. If a truckman comes out with a package numbered 1, the package has to be carried to that station even if it be 600 feet away; he has to go down to the end of the pier to make his distribution. The pier is open generally at 3 o'clock in the morn-

247 ing for delivery, in the height of the season it is open at midnight. The consignees get on the pier and veritably use it as a salesroom. The fruit lies on the pier as long as they want to it.

Q. Suppose it is unloaded from the cars, what are the circumstances?

A. We have a special detailed force for handling perishable products, but sometimes we are obliged to sacrifice our day labor in order to handle the fruit. When the train arrives we stop everything for that.

Q. How is it as to preserving the fruit from bad weather on the other side of the river?

A. In regard to oranges, if the train comes in about midnight during bad weather and is on the other side of the river, we let that freight remain in the cars from 9 to 10 o'clock in the morning for the consignees. Sometimes we send the car back to Jersey City and deliver it the next day.

Q. Where do the cars remain during this period, on floats?

A. They are taken off the floats, put into the yard and rebilled back the next day.

Q. They remain on the float during the day?

A. Yes, sir.

Q. There is a constant demand for those floats, is there not?

A. Yes, sir; a good deal of business is side-tracked in order to get rid of this perishable freight.

Q. You have also an extra clerical service?

A. We have a night service of clerks and watchmen. Their expenses like ours is extra. There is $300 or $400 a month for gas.

Q. I believe that you did say that this freight was ready for delivery early in the morning?

A. Ready for delivery at midnight.

248 Q. How is that as to other freights? How is ordinary freight delivered?

A. We do not open our gates until 7 o'clock in the morning and stay open until 6 in the afternoon.

Q. And for this freight it is kept open all night?

A. Yes, sir. The force comes on at 7 o'clock at night.

Cross-examination by Mr. COOPER:

Q. Did I understand you, Mr. Townsend, to say that this pier is used exclusively for oranges?

A. For oranges and perishable freight.

Q. What do you mean by that?

A. I mean all perishable freight from the South. We opened this new pier for this trade especially the 18th of this month and I think up to 4 or 5 days ago we had nothing but oranges on it. I say in addition to this that we leased pier No. 29½ for the Southern trade last November, at an expense of $800 a month and on that pier up to Mar. 17th we had nothing else but oranges on it. That pier is on our hands now and until the last of June.

Q. What do you mean by saying that the pier is veritably free to consignees? What is the difference, and in what is it not free?

A. When I spoke of it I said the pier is thrown open for them. Their assorters are there until 8 or 9 o'clock at night arranging for shipment.

Q. You receive any compensation from consignees for the use of these stations?

A. No, sir.

Q. Do you receive anything from the consignees?

A. No, sir; nothing at all. We do not use it for any other purpose.

249 Q. Do you not incur some kind of terminal expense at New York on pretty much all freight?

A. No, sir; I will explain. The cost of this freight is 60 cents a ton at New York as compared with 40 cents of all other freights at the other two piers.

Q. You do not make any charges or make any terminal expense or receive anything for this terminal service?

A. Not that I know of.

Q. These facilities that you speak of are for consignees rather than for shippers?

A. For the trade.

Q. Are not those things matters that would enter into reasonable terminal charges rather than as part of a through rate for a thousand miles?

A. You ask me questions I cannot answer.

Mr. LOGAN:

Q. The fact is, no charge is made for it.

A. As far as I know or have any knowledge there is no charge made for it.

Mr. COOPER:

Q. Do you afford those kind of facilities for perishable articles in other countries?

A. We receive no fruit except from the South.

Q. Do you not get peaches and apples, etc.?

A. That kind of freight is only from the South. It all comes from the South.

Q. Do you mean from the South, Delaware, Maryland, etc.?

A. No, sir; south of Richmond and Norfolk entirely.

250 Q. Is there any return freight loaded at these piers to Southern points?

A. No, sir; we made an experiment of that, I think, twice in 1888. We ran a through train to Wilmington, and the highest number of packages we got loaded in one car was about 30. We tried that a year and gave it up.

Mr. LOGAN:

Q. In the opening and closing of the season, before it gets up into the height of the season and falls off in the latter part, how is it as to cars coming in partially loaded?

A. I have seen this year a car of oranges come in, I think, the total number of boxes in the neighborhood of 20 or 25.

Q. What would be its capacity?

A. About 300 or 350.

Q. How often did you see these cars not fully loaded?

A. I do not believe I saw it personally more than once or twice, but I remember calling the attention of the company to it about four or five times.

Mr. G. N. SORREL, a witness on the behalf of the defendants, having been duly sworn, testifies as follows:

Direct examination by Mr. CUNNINGHAM:

Q. Will you please state your position in connection with the Ocean Steamship Co.?

A. I am manager of the steamship line from Savannah to Phila., New York and Boston.

251 Q. Did you participate with the other transportation lines in the recent change of rates from 30 cents to 40 cents?

A. Yes, sir.

Q. Will you please state what induced your line to make that increase in the rate at the time it was made?

A. We had occasion to study very deeply into the revenue that these steamships were earning and the expenses of handling this special part of the business, and concluded that it was necessary to make this advance or to participate in this advance of the rates if we continued the service we were giving it. We had almost daily requirements for better expedition and for increase of facilities.

Q. The transportation by the steamship companies of this fruit, is it, or is it not, necessary to reserve any portion of your ship's room, and particular portion of the ship's room?

A. Yes, sir. In the carriage of this traffic we have to reserve the very best part of the ship. Those portions of the ship that are most completely ventilated are specially set aside for the carriage of oranges. We make that provision of room with the expectation of getting the usual amount that comes to us at certain seasons, but sometimes of course we suffer disappointment. It is almost impossible from the nature of the railroad service in Florida or any service there, that we should be fully notified some hours before as to what oranges are to be offered to the steamer. This room is retained at any event. If there is disappointment as to time of the arrival of the fruit train or an unexpectedly small amount of fruit is offered, that ship is very apt to go off with unfilled room.

Q. Can you fill it with other freight?

A. If there is freight lying around the wharf awaiting for transportation, other freight not of the high-traffic character of

252 oranges, the oranges are the highest-class freight we can carry, we might put that freight in place of the oranges.

Q. Otherwise the room would be left vacant in the ship?

A. Yes, sir.

Q. Does it frequently happen?

A. Yes, sir.

Q. That space that you devote to oranges or fruit or vegetables if it were not so retained for that purpose would you have anything to put in it?

A. I could get freight to put in it if we knew in advance it would not be filled with fruit. We could look ahead some days or weeks and make contracts.

Q. How long before sailing time of the ship do you hold that space open for oranges?

A. It is held to the time of the very sailing of the ship. These trains may come in some hours before the sailing time. We hold the space open up to a couple of hours of the time the ship sails.

Q. Possibly the last thing loaded is oranges?

A. Yes, sir. As soon as we become satisfied that the oranges will not come we look around for other things.

Q. What are the principal articles of freight carried by your steamship line?

A. Our main article is cotton. It is the largest article and the most remunerative.

Q. What do you have to pay per ton per mile averaging it now based on railroad transportation?

A. I have not the figures here but I have taken the revenue of that article, say from Savannah to New York, and compared it with the revenue we got on oranges and some other leading articles.

Q. What does the comparison show?

A. Our gross earnings in cotton to be $5 or $6 a ton.

253 Q. What are the gross earnings on oranges?

A. The orange revenue is about $4.25 a ton gross.

Q. Have you made any comparison of any other articles?

A. Yes, sir; lumber for instance. That pays us from $3.10 to $3.20 a ton. That article is a very low quality. We can put that anywhere. The same way with cotton. We can put cotton in any part of the ship. We do not have to reserve any particular part of the ship for it like oranges. Any part of the ship can be used for it, so that it complies with the law of the State it is all right.

Q. How does the cost of loading lumber compare with the cost of loading fruit, vegetables and oranges?

A. The cost of loading lumber is very dependant upon how it is cut. The cost of handling is greater than the cost of handling cotton, and possibly greater than the cost of handling oranges in Savannah. But the very cheapest article we handle may be said to be a bale of cotton and it can be put anywhere and in any way.

Q. Now when the ship arrives at its destination what is the difference in the handling of oranges and cotton or any other article?

A. The cost of the loading of oranges in Savannah is greater than the loading of cotton for the reason I have given. The discharge of cotton in New York I should estimate is about the same as the cost of loading in Savannah. But the handling of oranges at the terminus is very heavy on us. The cost of unloading the cotton on the piers in New York may be 20 or 25 cents a ton. I am quite satisfied that the handling of oranges costs us not less than 75 cents a ton. Oranges have to be taken out of the ship with the very best facilities that we have been able to get. There are two piers devoted

to this traffic, one of them very largely set aside for oranges.
254 The oranges are taken from the ship and taken to the warm-storage warehouses and set aside. They are tiered up from 10 to 12 high for the convenience and distribution of the oranges.

Q. How does the cost of handling cotton in New York or handling cotton from the time you receive it till you are ready to discharge it compared with the cost of handling oranges?

A. Of course it should be said when I state the revenues are $5 or $6 a ton the actual handling is not the only expense upon that cotton. That is the gross revenue upon it with an expense of compressing it to reduce its size for marine transportation, but even with that expense upon it it would bring down the revenue and to about the same as it is on oranges.

Q. You state it would cost 75 cents a ton to handle oranges in New York. How much does it cost to handle cotton?

A. About 20 cents a ton.

Q. About 50 cents difference?

A. Between 45 and 50 cents a ton.

Q. Is there any provision in New York for the particular protection of this fruit?

A. Yes, sir; we have made very ample provisions for such protection.

Q. Well, what is it?

A. We have taken a large part of one of our piers that we have rented in the city of New York at an enormous price. It costs between $40,000 and $45,000 on that pier; we have set aside nearly half of it for the especial care of oranges. We have introduced steam into it and employ it for keeping that place warm in cold weather. Of course the boiler answers for other purposes, but we were put at the expense of putting up the boiler on account
255 of the oranges. That was done at considerable expense. That is a special provision that we have made for the care of this fruit. It was done in October. We notified them about it. It was meant as a protection to our line in the hope that it would bring business to us to give these additional facilities to the trade, and we notified them that no special charge would be made for that warm storage.

Q. Was no charge made?

A. No, sir.

Q. No charge made for warm storage?

A. No, sir; there is no wharfage charge made in New York.

Q. Are the oranges sold directly from the wharf in New York?

A. Yes, sir, mostly; one of the special reasons why I got up that warm storage was at the instance of Mr. Ives, agent in New York. He made known to me his wants and the wants of the trade. The Fla. fruit exchange is the largest shipper from Florida. They were our most valuable patrons. They were without warehouses in New York because they rented no warehouses. They left the fruit upon the wharves and sold it from the wharves in a great measure. When it lay there Mr. Ives' agent told me that he could not sleep of nights from thinking of the cold weather. I met his views

about it and we marked it off and then got up these warm-storage rooms.

Q. Do you file with the commission the rates used over your line?

A. We do not file them.

Q. Have you or not notified the commission that the rates of the Sav., Fla. & West. R'y were observed by your line?

A. Yes, sir; in the first annual report of the commission
256 will appear letters from two of our agents to the effect that the steamship lines were a continuation of two railroads in the South and those railroads were the rate-making powers. The rates made and published by them would be filed with the commission and published by us.

Q. Has this service, quick transit to New York of oranges, etc., induced you to make any particular effort to get your ships there more rapidly?

A. Yes, sir; we have realized the necessity of giving quick transportation. It has governed us in the construction of our last ship. We built a ship that makes 16 knots an hour and cost us half a million of dollars. We had that ship built very largely in view of the transportation of this product. The other ships do not possess the same speed. Under this great pressure to get to the piers in New York in time for the early market for the benefit of those shippers we have driven the ships harder than ever before. That this greatly increased our coal consumption.

Cross-examination by Mr. COOPER:

Q. At the old rate that prevailed prior to Nov. 23d, were not oranges one of the most profitable classes of freight?

A. No, sir.

Q. You speak of oranges in comparison of cotton by the ton. What is the charge you make per bale on cotton from Savannah to New York?

A. $1.50 per bale when unbroken and $1 per bale when delivered to us pressed. The value of a bale of cotton is $45 to $50.

Q. About how much space does a ton of compressed cotton take?

A. About 21 or 22 cubic feet. Uncompressed it would take, I should say, about 40 cubic feet.

257 Q. Will not a ton of uncompressed cotton take up about four times the space of a ton of oranges?

A. There are 25 boxes of oranges in a ton, and I think about twice as much space would be taken by a ton of cotton as that taken by a ton of oranges.

Q. What is the value of a ton of cotton as compared with the value of a ton of oranges?

A. A ton of cotton is five bales—$180 to $200—and a ton of oranges at $4 a box $100.

Q. Putting oranges at $4 a box would be very high, would it not?

A. I suspect so. I am not familiar with the price of oranges.

Q. These oranges are put up in standard boxes of 80 pounds, are they not?

A. Yes, sir.

Q. Are they not an article that pack well?

A. They pack very well, but for purposes of ventilation you have to leave much air.

Q. They are easy to handle?

A. You cannot handle them as a bale of cotton. There is a great deal of lost space in storing them. You have to leave a space between the top of the piles of boxes to ventilate, but with cotton and other freight it is jammed up as tight as you can.

Q. Are orange boxes more difficult to handle than a barrel of flour?

A. A barrel of flour is much easier to handle, it will roll. Oranges require more care in handling than flour.

Q. You speak of steamships reserving space for oranges. Does that amount to anything more than the fact that you have to load toward the upper part of the ship?

A. It is only applied to the upper part of the ship, but it is a very large part of the ship.

258 Q. You have simply to get a cargo below first and then put oranges above?

A. Yes, sir.

Q. Your connection with Florida is the S., F. & W., is it not?

A. Yes, sir.

Q. The points in Fla. at which the S., F. & W. gathers oranges are Jacksonville and Callahan, are they not?

A. Jacksonville and Callahan.

Q. Is it not entirely practicable for you to get information through the S., F. & W. as to their trains from basing points in Fla. so as to know what your load of oranges will be?

A. It seems to be impracticable. We have irregular departure from Savannah. Our steamers leave on a tidal service, and any information that we can get from Callahan is given at night. It seems to be difficult to give it in practical shape.

Q. Well, then, there is no such accurate running of orange schedules from Fla. to Savannah to connect with your steamship line as enables you to know just what your supply of oranges would be?

A. No, it does not come to me in that shape.

Q. You testified that sometimes the oranges did not come in time on the train, and consequently you did — have a full load?

A. Yes, sir.

Q. Is it not also the case that oranges arrive after you have loaded or after the ship has gone?

A. Yes, sir.

Q. Then they wait for the next ship?

A. Yes, sir, 48 hours after.

259 Q. Does it ever happen that oranges are left on the wharves because there is no space on your ship to take them off?

A. I do not recall an instance this season or last. If it is so it is so rare that it is to be considered an extraordinary exception. That

condition of things is brought about by the large room reserved for the oranges.

Q. What is your relative charge per ton on cotton and on oranges?

A. The relative charge per bale or box?

Q. Per ton? You spoke of your expenses and costs, etc.

A. I figured that our gross revenue on oranges was about $4.25 per ton.

Com'r KNAPP:

Q. Is that on the present prices?

A. Yes, sir.

Mr. COOPER:

Q. On cotton what is it?

A. Between $5 and $6 per ton. That is a varying rate, however, much more varying than on oranges. It depends upon the condition of the market.

Q. It is a fact that cotton is a cargo that takes up a good deal more of space and is more valuable than oranges?

The CHAIRMAN: He stated that.

Q. You spoke of increase of speed. That increase of speed is not incurred solely on account of oranges. For instance, is it
260 not a fact that the increase of speed is largely to go faster than your competing line, the Mallory line and Clyde line?

A. There is no racing between us.

Q. Do not you try in fact to make faster time than they do?

A. Yes, sir, we are a competing line, but the real promoting cause of it is to get the fruit there in time to suit patrons. That is the cause of it.

Q. You spoke of warm storage in New York and *and* also of the cost of space occupied on the wharf to you. From what you have testified, of course cotton takes up more space on the pier than oranges?

A. We need not put the cotton on the pier at all. We unload it in the barges alongside the ship and send it off. Some of it may get on the pier, but the usual course of it is to unload it on barges. If we could put the oranges on barges it would be less expensive to us.

Q. These boats by which you carry oranges you also carry passengers do you not?

A. Yes, sir.

Q. Is it not your desire to make rapid speed on account of the passengers, and is not a great deal of the cost incurred for that purpose?

A. Of course, it is very much due to all that. But I would not make a voyage to New York for the purpose of laying the passengers down there early in the morning. We do it for the morning market and for the convenience of the shipper. It does not make much difference to the passengers whether the voyage is two or three hours earlier, but it is important to the fruit.

Q. Are you making any particular better speed on your ships taken altogether?

A. Yes, sir; we are burning more coal.

Q. What is the increase of speed? Have you any record of it?

261 A. Our engine performances would show it all. It does amount to something, to considerable.

Q. You spoke of this warm storage. Is it not a fact that it is a facility which you put in New York for advertising purposes expecting to be compensated in the increase traffic?

A. Decidedly, and at the unremunerative rates we have been carrying for the last two or three years it could not be maintained.

Q. Has the Clyde line got like facilities in New York?

A. I do not think they have.

Q. Has the Mallory line got the like?

A. I am not informed. My information is that we are the only line that has such facilities.

Q. The line from Portsmouth?

A. I do not think so.

Q. The railroads have not got them, have they?

A. I am not informed of it.

Q. You have no knowledge of any but your own?

A. No, sir.

Q. I understood you to say you made no terminal charge for this warm-storage facility at New York. Have you made no extra charge for the terminal facility?

A. None, sir.

Q. Well, then, instead of raising the rate from Fla. via the Clyde line, via the Mallory line and via the rail lines, would it not have been more proper for you to have made a terminal charge than to have raised all these routes that had none of these facilities?

A. I think the trade did not care to pay the terminal charge.

Q. Well, then, did you understand, because you offered warm-storage facilities in New York, that the rate by all these lines was to be raised?

262 A. No, sir. I am not speaking of our warm storage as the sole cause of the raise. I am citing it as one of the facilities. Justifying to some extent the increase in rates.

Mr. CUNNINGHAM:

Q. In increasing the rate of speed of the ship an hour what consumption of coal does it make?

A. An increase on one knot an hour swells the consumption of coal very much. If a ship goes at the rate of ten or eleven knots an hour the consumption is not much. The great consumption is in the last few knots of the ship's speed.

Mr. CUNNINGHAM:

Q. Therefore the increase of speed increases the consumption of coal.

A. Yes, sir.

Q. In loading your ships did I understand you to say that you could not load cotton between-decks?

A. Oh, no. You can carry cotton there when you have no fruit. You can carry cotton anywhere.

Q. Is it necessary for you to put the cotton in the lower part of a ship between-decks?

A. Oh, no, sir.

Q. You use the cotton as ballast in other words?

A. No, we generally put heavy articles below.

Q. What do you use?

A. Pig-iron and naval stores and rosin.

Q. Is rosin easily handled?

A. One of the easiest, and we have consequently a very low rate on it.

Q. What is the rate on rosin from Savannah to New York?

263 A. It is worth about $1.50 or $2 a ton.

Q. Why is cotton unloaded into a lighter?

A. It is the most convenient way to distribute cotton, the cotton that goes to New York on steamers, we do not put into lighters. That goes upon the pier and held for the *the* platform upon the street and there it is carried to consignee to take away. New York cotton is carried to the warehouse stores in New York and that for foreign ships is put on barges.

Q. They pay for the storage in New York and the Ocean S. S. Co. for the storage of the oranges?

A. Yes, sir.

Mr. COOPER:

Q. Do you pay anything for these barges you unload on?

A. Yes, sir. The barge is connected with the barge service in New York. The barge belongs to this company.

Mr. CUNNINGHAM:

Q. That you say is an investment of the capital of this Co. in those barges?

A. Part of this same Ocean S. S. Co.'s service. Whatever it amounts to it is credited up to it.

Q. Is there any charge made for that transportation on the barges?

A. Oh, yes.

Q. Who pays the charge?

A. If it is carried to a warehouse in the city of New York the owners of the cotton pay for the storage and they pay for the barge service.

264 Mr. COOPER:

Q. Does the Ocean S. S. Co. pay for the barge service in any case or credit the barge service with it?

A. Oh, yes.

Mr. CUNNINGHAM:

Q. What does the Ocean S. S. Co. pay for that?

A. If we should deliver the cotton to the steamer to go abroad we pay for it.

Q. You undertake in Savannah to deliver that to the steamer?

A. Instead of hiring another barge we take another barge and credit our barge with it.

Q. Any cotton that is to be delivered in New York city, the party to whom it is to be delivered pays the barge charge?

A. Our cotton is delivered at our pier and if the owner of that cotton in New York wants it delivered we carry it and charge him the barge service and he pays it.

Mr. H. WALTERS, a witness on behalf of the defendants, having been duly sworn, testifies as follows:

Direct examination by Mr. ELLIOTT:

Q. You are connected with the Atlantic Coast line? What is your position?

A. General manager.

Q. Between what points does that line extend?

A. From Richmond to Charleston.

Q. How long have you been the general manager of that line?

A. A little over six years.

265 Q. Will you tell the commission, please, how the rate on oranges which existed prior to the 23d of November, 1890, were made generally over the Atlantic Coast line, between points in Fla. and New York or points north?

A. So far as our line, the Atlantic Coast line and the Atlantic Coast Despatch line, they have been made after the two water lines have fixed their rates. We learned by experience what differential we could make to increase that rate and get some business, and that was made the rate and our connections were notified.

Q. Your rates were controlled or regulated by the water rates?

A. Yes, sir. Until this past year there never was any agreement. We never went into any meeting or attempted to make any arrangement ourselves with other lines, and I was at the meeting during the past year, last November, and this was the first time we were ever present, as a line, in any negotiations for fixing rates.

Q. You mean prior to 1890, up to the time the present rates were fixed?

A. Yes, sir.

Q. What was your experience as to the rates previously existing prior to Nov. 23d, 1890. Were they remunerative?

A. So far as our line was concerned I considered they were not.

Q. Do you know about what the cost of transportation of oranges was per ton per mile over your line?

A. The general cost per ton per mile under the present rate?

Q. Yes, sir.

A. It varies. The highest rate we got per ton per mile was 1.2 cents. Now it is down to 9½ mills.

266 The CHAIRMAN: You are speaking of freight on an average?

A. No; oranges.

Mr. ELLIOTT:

Q. What are the rates on an average?

A. Something over 7; a very small fraction under 8 mills per ton per mile.

Mr. ERWIN:

Q. That is the cost?

A. Yes, sir.

The CHAIRMAN: Were those other figures the cost?

A. No, sir; that was the revenue. The revenue was about 1.2 cents.

Mr. ELLIOTT:

Q. How about the cost?

A. We had no special means of estimating that. We consider that the cost of handling oranges is very much above the average, for a good many reasons. The train on which we carry the greater amount of our oranges is this train that has been spoken of as 208, the Atlantic Coast Despatch train, which was put on for this special purpose and for the handling of vegetables, and orders have been issued, and it is the understanding of the lines north of Charleston and the Penn. R'y that nothing except perishable freights are to be put on that train.

267 Q. Are there any other extra facilities that you offer for the transportation of oranges and perishable fruits and vegetables?

A. Yes, sir.

Q. State them generally, please.

A. We were obliged at Wilmington to construct a special yard for that purpose in order to handle the business and inspect the trains within the time which was given. If we had allowed the train to get down into the regular freight yard we would not have been able to get out on time. For that reason we built this yard at a cost of about $15,000 or $18,000, and then built a long platform. We found that necessary on account of the manner in which oranges are loaded in Florida. Coming to the various junction points. Those cars are loaded very light, nothing like up to their capacity. We tried to have the cars loaded fully up to their capacity but have never been able to do it. The highest we ever got in the season has been an average of a little less than 10 tons to a car. The platform which is built in the yard was for the purpose of consolidating and loading at this point. In handling this business the Pennsylvania railroad notified us that all the cars for Jersey City must come first. This is what is called drilling the train, and that all cars from Philadelphia must be together; all for Baltimore must be together, etc. We would not permit and cannot permit the oranges for two destinations — be loaded in the same

car except in a very few cases. It might be where freight passes through Jersey City to some other point, or through Baltimore going to Pittsburg. It then became necessary for each one of the roads in Florida at the junction points to have separate cars for separate destinations, and those cars came to us very often with five, ten or twenty boxes in them, and the result has been that we have been compelled to consolidate. During the orange
268 season we take from three to five cars out of every train by consolidation and those cars are sent back empty, and this fast movement has incurred upon us a very heavy expense at Richmond, which we have just completed. On account of our grades in Richmond we were not able to handle this fast freight there in less than three hours, and we have been obliged to spend about $150,000 in building a track around the city simply for the handling of these freights.

Q. Is there any exceptional difficulty in the handling of freight through Richmond?

A. We have a grade there of 120 feet and an engine can only haul eight cars up that grade.

Q. You have to divide the train and take it up in pieces?

A. Yes, sir. We did not have engines enough to have one for every eight cars. We had to divide the train and haul a portion of it up and then return for the balance.

Q. That made it necessary for you to spend this large amount of money to provide for the fast freight service?

A. If we had had that fast freight service I do not think we would have had need for that track.

Q. How about the cars that are used in the transportation of oranges. Are they the ordinary freight car?

The CHAIRMAN: That has been gone into several times.

Mr. ELLIOTT:

Q. In regard to the rate for the transportation of oranges should the transportation of oranges in your opinion be governed by the rate per ton per mile of other freight?

269 A. No, sir; I do not think so for the reason we have never been able to load cars up to their full capacity. The nearest we have been able to get was about 19,000 pounds on an average. I do not mean that some cars are not loaded to their full capacity. I mean the average.

Q. Then I understand you to say from your account of it, that the cost of the orange transportation is above the average of ordinary freight?

A. That and the vegetable freights are the most expensive freights we handle.

Q. Did you have anything to do with the arrangement of the present rates that have been in force since the 23rd of Nov.?

A. Yes, sir, I was present at the meeting when it was decided to advance those rates.

Q. Will you explain to the commission whether — in your opinion

are remunerative, are reasonable and just for the transportation of oranges?

A. I do not think that the Atlantic Coast line is going to make any large profits out of the movement at the present rates. I am not entirely satisfied with the revenue which we derive now. The old rate paid us barely more than the cost of average transportation. The average cost within a very small fraction—200th of 8 mills, and the old rate averaged us 8.5 mills. That we discovered after two years' trial.

Mr. COOPER:

Q. That is what?

A. Only 3.10 of a mill above the cost.

Q. That was under the old rate?

A. Yes, sir.

Q. Under the old rate you were receiving 3.10 of a mill more than the average cost of freight transportation?

270 A. Yes, sir.

Mr. ELLIOTT:

Q. As to the movement of these trains, do you carry any other freight except perishable freight on orange trains?

A. The instructions are that none other shall be carried on those trains and we cannot tender other freight to connections. I would not like to say that occasionally a car is not put in for probably it is. The instructions are not to put them on.

Cross-examination by Mr. COOPER:

Q. In regard to this platform at Wilmington that has been put in. Was not the putting in of that platform — enable you to dispense with going into your general freight yard as you used to do before it was built?

A. Yes, sir.

Q. Is it then not a facility to yourself to that extent?

A. It is much more expensive to us. We are obliged to keep several forces of men there who have nothing to do but work at that point. It has not enabled us to dispense with anything down at the local receiving point.

Q. You consider it more expensive to change at the junction than to carry the cars into the freight yard?

A. No, sir; but to do the two things together make it more expensive to handle it at this special yard, makes just that much increase of expense, and it is a considerable increase.

Q. When was that improvement made?

A. This is the second season that it has been operated.

Q. That improvement was there under the old rate?

271 A. Yes, sir.

Q. And this improvement in Richmond, that is beneficial to other classes of freight also?

A. We haul other freight over it.

Q. It is an improvement to the general facilities of your road and not especially for oranges?

A. Yes, sir, but I do not think it would have been built except for the oranges.

Q. When was that made?

A. That was just finished.

Q. You speak of the revenue derived by the Atlantic Coast line; that is, of the road north of Savannah, as I understand it. Is that the division?

A. It is north of Charleston.

Q. That is what I wanted to get at. It is north of Charleston you speak of. You say that the through rate, as far as you are concerned, is hardly, you think, remunerative, and that it is not much more than remunerative now. If the through rate was divided more equally in proportion to the distance from Jacksonville north, would not your proportion of it be considerably increased?

A. Yes, sir.

Q. Well, then, is it not a fact that your rates which you considered heretofore too low and not too high now, is not that due to the fact that the Sav., Fla. & West. takes an arbitrary of 18 cents out of the freight which is turned over to you?

A. It is due to the fact that we do not get any more.

Q. Is not your differential based on the Clyde line at Jacksonville?

A. That differential is based on what would give us business in competition with the two water lines.

Q. The Clyde line, which is a short line from Jacksonville,
272 makes the water rate, and the S., F. & W. and Ocean S. S. lines accept the same rate to Savannah, and the differentials are based on the Clyde rate from Jacksonville?

A. I do not know how the two lines make their rates. I have never been present at their meetings. I think they agree on the rate, however.

A. Do you mean that you were present at the preliminary meeting of the traffic managers where there was a failure to agree and this thing was referred to the president last fall, or do you mean the president's meeting that adopted the rate?

A. At the president's meeting.

Mr. ELLIOTT:

Q. I do not think I asked you anything about the speed of this particular train. Do you know the schedule of that train?

A. It is something over 18 miles an hour.

Q. Is that faster than an ordinary freight schedule?

A. Our ordinary schedule is from 12 to 14 miles an hour, 14 is the fastest. This schedule was put on expressly for handling oranges and perishable fruit.

Mr. COOPER:

Q. Do you publish a schedule or make a contract for a schedule of fast time with shippers?

A. No, sir.

Q. In regard to the junction facilities spoken of at Wilmington. Are they not used for other articles besides oranges?

A. For all fruits and vegetables.

Q. Well, that applies, I suppose, to the fruit and vegetable crops of the districts lying north of Fla.?

273 A. It does, but not during the orange season, except just towards the end of it. Then the vegetables from Charleston, of course, come in on this train for vegetables. We are compelled to consolidate some of them also.

Q. And I suppose as the season grows long that you have vegetables and fruit shipments from other places?

A. Charleston is pretty much the only territory that passes through Wilmington.

The CHAIRMAN: What proportion goes by water of fruits and vegetables, and what proportion by all-rail?

A. I do not know. I have tried but cannot succeed in getting the information, but a good deal more goes by us.

CHAIRMAN:

Q. When you speak of the boat line making the rate and then you fix the differential, you must expect to fix such differential as will enable you to participate in something like a certain percentage of the business?

A. Yes, sir; it has been largely experimental.

CHAIRMAN: About what percentage do you get of the business? About what do you expect to get when you fix your differentials?

A. Well, we have never figured on any amount. I should suppose the best season we had we handled perhaps of the business which went East and to Eastern cities, Northern and Eastern cities, probably 33 per cent. We did not handle so much this year.

274 CHAIRMAN: You fix the differential under which you expect to be able to get something like that?

A. Yes, sir.

Mr. COOPER:

Q. You say you did not get that proportion this year?

A. No, sir; I think not.

Q. The fact that you did not get this year the proportion heretofore gotten, does not that indicate that all-rail rate, based on the same differential applied to the increased water rate, is too high? Have you not given the water line an advantage over yourself?

A. I do not think that is the cause of it, sir. I think there are other causes. I think one of the causes is the fact of the storage, the warm storage, which the Ocean S. S. Co. has given in New York, which was generally advertised. That has undoubtedly hurt our business.

Q. When this rate was made the differentials were not charged, that is, the same differentials were applied to the increased water rate?

A. The differential is really a little less than the increased rate.

Com'r KNAPP: The differentials are a positive quantity?
A. Yes, sir; it remains the same.

275 APRIL 26TH, 1892.

Met pursuant to adjournment.
Present as before.

GEORGE R. FAIRBANKS offered as a witness by the complainants in rebuttal, having been duly sworn, deposes and says:

Direct examination by Mr. COOPER:

Q. Have you any connection with the Florida fruit exchange, and if so, what?
A. I am president of the Florida fruit exchange. Have been for several years.
Q. Have you any knowledge of the statistics of orange production and shipment in and from Florida?
A. Yes, I have endeavered to obtain these statistics from all sources they were obtainable.
Q. Will you please state to the best of your knowledge and as far as you have been able to compile such statistics, the number of orange-growers, land occupied by orange groves, amount of production, cost of production, transportation, receipts by growers and such other figures bearing upon the subject as may be relevant and that occur to you?
A. From the best information I can obtain the number of orange-growers is from 10,000 to 15,000 in this State. The fruit exchange has over 7,000 stencils registered on its books and a stencil means an orange-grower. It stands in the place of his name. I think there are upwards of 70,000 acres of bearing orange groves and probably 20,000 to 30,000 that are not bearing. The value of the bearing groves, on a basis of about $300 per acre for bearing groves, which is a very low estimate, would be about 25 million dollars. It
276 is more difficult to say about the non-bearing; but I thing a fair estimate on the non-bearing groves' values would be about 10 million dollars, that is groves in the different stages from newly planted to those just coming into bearing. I would consider their value to be 10 million dollars from the best information that we have been able to compile in the fruit-exchange office, and which I consider quite correct. The orange crop of '84–'5 was 600,000 boxes, that of '85–'6, 900,000 boxes, that of '86–'7, 1,260,000, '87–'8, 1,500,000, '88–'9, 1,950,000, '89–'90, 2,150,000, '90–'91, 2,600,000, '91–'2, upwards of 3,500,000. From the figures I have here I have the net average for four years, '88–'9, $1.72, '89–'90, $1.52 net, '90–'1, gross $2.31, net $1.54, '91–'2, gross $1.79, on Eastern shipments, and net on Eastern shipments $1.05.
Q. In these figures which you have given, in terming them net, that is only a deduction of transportation and commission. That does not include any deduction for the cost of production, picking and packing?

A. Not at all, but net returns made to the shipper by the fruit exchange. It is what would be called f. o. b.

Q. Have you any statement as to what is to be deducted from that f. o. b. net?

A. Yes, sir, but I think it would be better to put the whole statement in together. The amount of the increased freight on that portion of the crop sent East in the season of '90–'1, at 10c. a box, is $173,134,000. That is subject to deduction that I have not made for the small quantity shipped before the 23rd November. The amount of increased freight to the East for the season of '91–'2 at 10 cents a box, is $233,334, making a total for the two seasons since the rate was raised on Eastern shipments, $406,668. The increase in the rate over the rate allowed by the Interstate Commerce Commission by their decision would be one-half the year '91, $86,667, and for the crop of '91–'2 $116,666. That is for 3½ million
277 boxes. The total amount of freight paid on the crop of '91–'2 to railroads and transportation companies from the local shipping point to the point of destination East and West to large cities, 3½ million boxes at an average of 65 cents per box, that is, estimating the local freight at 16 cents and the through freight East and West averaging 49 cents, total amount $2,275,000 for this last season's crop, which estimated in car-loads at 300 boxes to a car would be 11,666 cars. ⅔ of that crop to Eastern points would amount to 7,778 cars, total tons carried '91–'2, 139,992, of which there went to Eastern points 93,338 tons. The average gross sale '91–'2 upon the whole crop according to the basis furnished by the sales of the fruit exchange, is $1.75 gross per box, and the net on the whole crop East and West as near as we can get at it now is $1 net, less freight and commissions, of course.

Q. That is $1 f. o. b.?

A. Yes. The average cost of picking, packing, boxes and putting on at station at the starting point is estimated to be about 40 cents. In some cases it exceeds that. The cost of cultivation of an orange grove is estimated at $15 per acre, which is a moderate estimate. The average cost of fertilizers is $15 per acre. Supposing there is an average yield of 100 boxes to the acre the grower would pay out for cultivation on the grove from which the 100 boxes were taken, $15; for fertilizers, $15; for picking, boxing, etc., 40 a box, $40; and interest on $300 of his capital invested, $24, amounting to $94; net returns on 100 boxes, $100; cost of producing the same, $94; net profit on that basis on 100 boxes, $6.

(Objected to all the testimony given by witness by defendants' counsel on the ground, first, that it is irrelevant and not germane to any issue made; that it is testimony not within the im-
278 mediate knowledge of the witness, and that it is the introduction of an argument instead of testimony.)

Q. Will you please state whether or not the figures you have given conform to your own experience as an orange-grower as well as the statistical sources from which you may have gathered them?

A. They do as to all points except the use of fertilizers. My grove

is a hammock grove, where we use a much smaller amount of fertilizer than the great bulk of the groves in the country. I am increasing the use of fertilizers every year.

Cross-examination by Mr. HARTRIDGE :

Q. From what source or sources were the statistics gathered and compiled which you have just given?

A. From the general statistics as to the number of orange-growers; from the records of the fruit exchange and from the State immigration office and from the general opinions I have heard expressed as to the number of orange-growers.

Q. As to the number of boxes?

A. As to the number of boxes, the records have been compiled in the office of the fruit exchange and which have been obtained through reliable sources as to the output.

Q. What sources do you mean when you say "reliable sources"?

A. Oh, I mean from those who know how much.

Q. Well, who are those?

A. Persons engaged in the shipping business; persons at different points. We have an agent at Gainesville who reports daily the output from that point, and we have several other agencies. I derived my information from the general manager of the fruit exchange.

279 Q. Then you mean to say you have made these figures from statements made to the fruit exchange by its different agents throughout the State?

A. Well, its agents in the State and from persons who have furnished the information. I cannot say personally who furnished the information, but the information has been given me from year to year and is a matter of record in the fruit exchange office and is believed to be as near correct as such statements can be made.

Q. And the records are based upon the statements of different persons which have been sent in to the fruit exchange?

A. I believe so.

Q. When you state the cost of growing, what elements do you consider—cultivation?

A. Yes, cultivation is a part of it. I consider as elements the hands you employ, the wages you pay. That comes under the head of cultivation.

Q. What is the average, if you know, *per diem* paid to the ordinary hand who works in an orange grove?

A. I pay, myself, $1.00 a day. I understand the wages generally are higher than that in the southern counties.

Q. Do you not know that in many of the groves they pay 50 cents a day?

A. I do not. I have never paid a full-grown man less than $1.00 a day and sometimes more.

Q. Is it not within your knowledge that 75 cents has been paid on some of the groves?

A. It is not my knowledge. I have heard persons say they paid

less than $1 a day, but I have heard again that persons paid $1.25 and $1.50. It depends on what kind of labor you have and whether it is abundant. White labor is higher than negro labor.

280 Q. You made a statement of the number of orange shippers. Do you include in that statement all persons who ship oranges, no matter how small the quantity?

A. Yes, all that ship oranges. They range from groves 5 acres to 200 acres.

Q. In the estimate which you have made of the value of groves do you have any line of demarcation between pine-land groves and hammock groves?

A. Well, I would consider $300 an acre to be a rather low average upon all the groves that are bearing.

Q. Then you place them on the same plane in the estimate?

A. Simply for the purpose of averaging because I do not know how many acres there are of each.

Q. In estimating the value of the groves, what elements have you taken into consideration?

A. I have taken the reported prices at which groves have been sold and the general opinion of the values.

Q. The calculation that you make of the amount of freight paid, in round numbers, on account of the increase, that is based upon your figures of 3½ million boxes?

A. Yes, sir.

Q. That 3½ million boxes, as I understand it, is based upon the information derived by the fruit exchange from its agents?

A. Yes, sir.

Q. Do you take into consideration in that any freights which have been returned to shippers?

A. I never heard of any freight being returned to shippers.

Q. You have never heard of any being returned?

A. No.

Q. You do not know that none have been returned?

281 A. Of course I cannot say that. I have not heard of any being returned, have not had any returned to me and do not know of anybody who has.

Q. I will ask if you mean to say that none have been returned?

A. I do not know that.

Q. In the 65 cents per box for getting them to market, do you include in that the carriage price to the basing point?

A. I do, yes, which I have placed at 16 cents.

Q. On what do you base your estimate of 40 cents for picking, packing, boxes, etc.?

A. My own experience and the reported experiences of others.

Q. You say it costs $15 per acre to cultivate and $15 to fertilize?

A. I think it does to properly cultivate and fertilize.

Q. Is not that dependent upon the character of fertilizer that is used?

A. The cost of cultivation?

Q. No, the cost of fertilization.

A. Well, the first-class fertilizers run from $36 to $40, those that are first class, Darling's and Mapes' and Bradley's and what are called the best fertilizers.

Q. You have made estimates, Mr. Fairbanks, for different years as to the net proceeds by the box. Can you tell me what it was for 1884–'5?

A. I can furnish that from the same sources I have mentioned.

Q. Do you know from any other sources what it was for 1884–'5?

A. I do not.

Q. Was it not very low that year?

A. My impression is that that was a very bad year and the reason I think so is because it stirred us up to form a fruit exchange.

282 Q. The lowness of prices in 1884–'5 caused the formation of the fruit exchange?

A. Yes, and the general dissatisfaction with the handling of the fruit. The dissatisfaction with the commission business.

Mr. A. M. IVES, offered as a witness by the complainants, in rebuttal, having been duly sworn, deposes and says:

Direct examination by Mr. COOPER:

—. Have you any position in connection with the Florida fruit exchange?

A. Yes, I am general manager.

Q. Have you any knowledge of the shipments of oranges from Florida as to quantity shipped, prices of transportation, etc.? Have you any information upon the subject?

A. Yes, I have a statement of the number of boxes shipped from the State of Florida, the number of boxes and rate. Those figures I made up from the different lines of transportation, getting the amount carried by each. In some cases we have had to estimate as it is impossible to get the exact number, but in most the cases we have the actual figures of the transporting lines to base our totals upon.

Q. Have you prepared statements of shipments of oranges by the Fla. fruit exchange for the season of '90–'1, and for the season of '91–'2 up to April 1st?

A. Yes, sir.

Q. To New York, Boston, Philadelphia and Baltimore?

A. Yes, I have it here. This statement is for fruit shipped
283 of returns made to the fruit exchange, shipments to New York, Philadelphia, Baltimore and Boston, season '90–'1,

Q. And the other is a like statement up to the 1st April?

A. The other is a like statement for the season of '91–'2 up to the 1st April. We have only the returns up to the 1st April. This latter statement shows the average freight paid on the total for the four points of 251,589 boxes, a gross average of $1.79. This is for '91–'2, and a net average we sent to grower of $1.05, and the freight

on this fruit amounted to $146,766.12, an average of 58½ cents per box.

Q. When you speak of the return made to the grower of $1.05 net, that does not include any cost of production, picking, packing or transportation to the original station, does it?

A. No, sir; it only includes—that is the net after deducting the commissions and freights.

Q. In your testimony before the Interstate Commission, you estimated that the result for the season of '90–'1 would be about the same as the previous season did you not?

A. I estimated, if I recollect, that it would be about the same as the previous season which was $1.52 or $1.52½ per box, not more, I think I stated. I found, however, that it amounted to a little more, that is, it amounted to $1.54 net, $2.31 gross and $1.54 net after deducting freight and commissions.

Q. That does not affect the net returns which you testified to before the Interstate Commission for the season which had been then completed and compiled?

A. No, sir. In my evidence before I gave the net results for the season of '89–'90, and stated then that '90–'1 was not made up, but that I did not think from returns I had been receiving that
284 it would amount to any more and did not hardly think it would amount to as much.

(Statement filed in addition to testimony of A. M. Ives, marked "Exhibit —.")

Q. Are there any oranges shipped from Live Oak?

A. I think not, none at all.

Q. It is not known as an orange-shipping point?

A. No, sir; it is a base point.

Q. How is it about Lake City?

A. They ship some few from there, not many. It is a very small shipping point.

Q. The number of boxes of oranges shipped each season as given in Mr. Fairbanks' testimony, you state were compiled in the office of the fruit exchange. Is that statement correct?

A. It is about as correct as we have been enabled to get as to the output of the State. It is made up, as I stated, from information gathered from the transportation lines carrying this product.

Cross-examination by Mr. HARTRIDGE:

Q. What is the highest net to any single shipper in the estimate which you have made of the average?

A. I do not remember now but I have seen some as high as $2.50. I could not give you the exact figures. We make up the average, not for individuals, but out of the total.

Q. Are there not many individual shippers whose average was much beyond $1.05 for '91–'2?

A. A good many have gone above that.

Q. Have any gone above $2?

A. Well, I stated that some had gone as high as $2.50. I could not give the exact figures unless I had the records.

285 Q. Does the average amount that you mention include the freight to the basing point?

A. Yes, sir.

Q. In the shipments in the estimates you have submitted, do you include shipments by all of the several lines?

A. Yes, to Eastern points. The Christopher, S., F. & W., Clyde, and S., F. & W. and steamer, and S., F. & W. all rail.

Q. What proportion of the shipment has gone by the Christopher, if you know? Is it a large or small one?

A. It is a small proportion, as she has only made four trips, I think, that we have shipped on.

Q. You have shipped on her?

A. Yes.

Q. For the fruit exchange?

A. Yes.

Q. In the shipments that you have sent by the Christopher for the fruit exchange did you have to pay cartage in New York?

A. No, sir; sold on the dock the same as when shipped by the Ocean Steamship.

Q. Ordinarily do they not pay cartage on shipments by the Christopher?

A. I never have.

Q. Do you know of any being paid?

A. I do not. I presume outsiders pay on the Christopher the same as by other lines. We sell our goods at the dock. The trade comes down and examines the goods on the dock and buys them there or at the auction-house.

286 (Filed in evidence the opinion, findings and order of the Interstate Commission in the case of The Railroad Commission of Florida *vs.* The S., F. & W. Railway Co. *et al.*, on application for rehearing.) Exhibit "D."

(Objected to as not relevant to the issue.)

(Petitioner also put in evidence testimony taken before the Interstate Commerce Commission in said case of The Railroad Commission of Florida *vs.* The S., F. & W. Railway Co. *et al.*, as follows:)

Testimony of A. C. Knapp except recall to identify paper.

Testimony of James Colhoun, direct and cross, except the portion relating to notice marked and excluded and on recall first question on page 192, (original copy) and answer thereto that oranges are shipped released.

Testimony of A. M. Ives, except portion as to invoice marked and rate sheet excluded.

Testimony of G. R. Fairbanks.
" M. S. Moreman.
" C. Delano.
" C. W. White.
" L. J. P. Bishop.

(Adjourned till Friday, April 29th, 10 o'clock.)

287 & 288 Before the Interstate Commerce Commission.

THE RAILROAD COMMISSION OF FLORIDA
*vs.*
THE SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY *et al.*

*Application for Rehearing.*

Originally decided October 29, 1891; application for rehearing filed December 22, 1891; hearing on application January 19, 1892; application denied February 9, 1892.

R. G. Erwin, John E. Hartridge, W. G. Elliott, James A. Logan and Lawton & Cunningham for defendants in support of application.

C. M. Cooper, for complainant, in opposition thereto.

*Memorandum by the Commission.*

289 Before the Interstate Commerce Commission.

THE RAILROAD COMMISSION OF FLORIDA
*vs.*
THE SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY *et al.*

*Application for Rehearing.*

Originally decided October 29, 1891; application for rehearing filed December 22, 1891; hearing on application January 19, 1892; application denied February 9, 1892.

R. G. Erwin, John E. Hartridge, W. G. Elliott, James A. Logan and Lawton & Cunningham for defendants, in support of application.

C. M. Cooper, for complainant, in opposition thereto.

*Memorandum.*

By the COMMISSION:

The report and opinion of the commission in this proceeding was rendered on the 29th day of October, 1891. (See 3 Inters. Com. Rep. 688.) An order was thereupon duly entered and served upon the defendants, in substance requiring them to forthwith cease and desist from charging or receiving any greater compensation in the aggregate for the transportation, wholly by railroad or partly by railroad and partly by water, of oranges and lemons shipped from Jacksonville, Callahan, Gainesville, Lake City, Live Oak or Fernandina, in the State of Florida, called and known as base points,
290 or from other points of shipment in said State, to Baltimore, Philadelphia, New York or other northeastern cities, than an addition of five cents per box to the rates in force for such transportation immediately prior to November 23rd, 1890. The defendants were also required to make reparation by refunding to the several persons entitled thereto, within sixty days after demand

therefor, all sums received by them subsequent to that date, for the transportation of oranges and lemons as aforesaid, in excess of such addition of five cents per box to the rates in force prior thereto; and, as such persons were not parties to the proceeding, and the amounts due to them respectively could not be ascertained from the evidence on file, the case was continued for such further action or inquiry in that behalf as might be necessary.

On December 22, 1891, certain of the defendants, to wit: The Savannah, Florida, & Western Railway Company, The Charleston & Savannah Railway Company, The Northeastern Railroad Company of South Carolina, The Wilmington, Columbia & Augusta Railroad Company, The Wilmington & Weldon Railroad Company, The Petersburg Railroad Company, The Richmond & Petersburg Railroad Company, The Richmond, Fredericksburg & Potomac Railroad Company, The Alexandria & Fredericksburg Railroad Company, The Alexandria & Washington Railway Company, The Baltimore & Potomac Railroad Company, The Philadelphia, Wilmington & Baltimore Railroad Company, The Pennsylvania Railroad Company and The Ocean Steamship Company of Savannah—filed an application for a rehearing of the case; and the commission thereupon ordered that such application be heard on the 19th day of January, 1892. Provision was made in the order for the service and filing of the affidavits, documents or other papers to be used by the petitioners on the hearing, and also denying oral arguments except by consent of complainant's counsel. Such consent having been refused, the application was submitted upon the affidavits filed by the parties and the briefs of counsel.

291

The only affidavit filed by complainant is that of A. M. Ives, manager of the Florida fruit exchange, which, however, does not go to the merits of the motion, but shows that the defendants have failed to comply with the order of the commission; that the Florida fruit exchange has filed a petition in the United States circuit court for the northern district of Florida to enjoin the Savannah, Florida & Western Railway Company and the Ocean Steamship Company from charging and collecting rates in excess of those allowed by the commission; that said defendants announced to the court their intention to apply for a rehearing, and that the sitting judge refused to proceed further in the matter until such intended application was disposed of.

In general terms the request for a rehearing is based upon alleged errors in the findings of fact embraced in the original report, and unwarranted conclusions claimed to result from such mistakes. The petition and affidavits also set forth the nature and bearing of the evidence desired to be introduced upon a new trial, and assert that such further and additional proof would justify, if not require a different decision.

We have carefully considered the matters set forth in these moving papers, and the argument which they are assumed to support, without being convinced that the complaint of the petitioners is well founded, or discovering any substantial reason for granting the application. The discrepancies alleged to exist between the facts

originally found and those now proposed to be shown do not, in our judgment, sustain any controlling relation to the results already announced, and are quite insufficient to warrant a reopening of the case.

292 It seems to us, on the contrary, that the correcting statement and fuller information, which the defendants now seek to present, might all be admitted and the record amended accordingly, without material effect upon the real question at issue. The mistakes claimed to have been made are confined to minor and incidental statements, upon which the important findings are in no way dependent, while the additional facts relied upon, conceding they could all be established, are without special significance or conclusive bearing upon the main contention.

These impressions are confirmed by an analysis of the affidavits and a more detailed examination of their various allegations. There appear to be nine specifications of error, and these will be separately noticed.

In the first place it is claimed that testimony can be introduced showing that the average market price of oranges during the seasons of 1889–'90 and 1890–'91, after deducting transportation charges and commissions, considerably exceeded $1.52 per box, and that the average profit to the grower considerably exceeded 72 cents, exclusive of interest on investment and other charges not included in the fifth finding of the commission. Four affidavits on this point are presented, viz: J. H. Killough, a New York commission merchant, says the average price per box, during the 1890–'91 season, was at least $2.25 per box. H. H. Schutte, of the same place, business not described, says it was $2.25 to $2.75 for '89–'90, $2.00 to $3.25 for '90'–91; and has been $2.00 to $3.00 so far this season. E. M. Travis, of the same place, business not described, says it would average about $2.50 per box for the season '90–'91; and A. F. Young, of the same place, business not described, says that the average for '88–'89 was $2.14, for '89–'90, $2.45; for '90–'91, $2.72.

293 The only reference in the report to the market price of oranges is contained in the fifth finding. It is there distinctly stated that "the evidence as to the market value of oranges is very indefinite and unsatisfactory. The average price during the season of 1889–'90, as stated by the manager of the Florida fruit exchange, was $1.52 per box, after deducting transportation charges and commissions." It was also stated that to net such a sum the selling price must be about $2.00. That this statement was intended to be only approximate is obvious upon its face. It does not, however, appear to be seriously incorrect. If we take the average price per box during '89–'90, named in the affidavits of Schutte and Young, which is about $2.50, and deduct therefrom 8 per cent. commission, amounting to 20 cents, and 53 cents freight from Florida base points by the all-rail line, there is left $1.77, from which must be further deducted the freight charges from points of origin to the Florida base point. Such a computation, on defendants' own showing, gives a result not materially different from the

approximate sum named in the finding, and stated therein to be the testimony of one witness, the manager of the fruit exchange. Using in the calculation the rate from the base point via the steamship lines, would make the balance 13 cents greater, but against this it is to be considered that the New York prices stated in these *ex parte* affidavits might be considerably reduced by a closer inquiry and the cross-examination of witnesses. It is also to be observed that the New York market only is given, while a large portion of the traffic went to other northeastern points.

The average of the prices named for the season 1890–'91, is about $2.50 per box. The price of oranges in the New York market during that season is not included in the finding of the commission, but it appears by these affidavits to have been about the same as the preceding season.

294 Connected with this statement of prices, which may be presumed to be quite as favorable to the defendants as can be made, is the payment of various loss and damage claims by some of the lines, which is apparently relied upon as evidence of market values during the years mentioned.

For the season of 1889–'90, it appears by the affidavit of J. C. Bruyn, claim agent of the Savannah, Florida & Western Railway Company, that several claims were paid by that company for oranges lost or destroyed on its lines of railway, or for which it was wholly responsible. The names of consignees, number of boxes, amounts paid, destinations, and dates of leaving Florida basing points, are given. The number of these claims *are* 71. The number of boxes, counting barrels as two boxes, is 119½, of which the greatest number belonging to any one shipment was five boxes, and the least one half a box. The total amount paid was $316.40, making the average price per box $2.65. Of these 119½ boxes 45½ were consigned to Western, Northwestern and Southern destinations, and to Canada, leaving only 74 boxes for northeastern points, on which $195.82 was paid, or an average of $2.65 per box. Prices paid on shipments apparently of the same day and to the same place show considerable variation.

The Ocean Steamship Company shows the payment, for 1889–'90, of 51 claims on 58¾ boxes, amounting to $168.15, an average of $2.85 per box. The Clyde line paid for the same season 55 claims on 93 boxes, amounting to $293.05, or $3.15 per box. Comparison of the prices paid on the same date shows marked differences in value. For instance, the Clyde line paid $3.50 per box and the Ocean line $2.50, on December 19, 1889, while the Savannah, Florida & Western paid about $3.00, on a consignment of

295 that date. The claims paid for the following season make a similar showing, and need not be given in detail. Much of this wide margin between highest and lowest prices is doubtless accounted for by differences in the quality of the fruit, but no small portion of it represents fluctuations in the market and variations in estimated values at different places and by different persons. The carriers were obliged to depend largely upon the representations of the various claimants whose

property was lost or injured, and it is proper to take into account that the oranges paid for, under claims for loss or damage, never reached their destination. The dealers' prices, confined to one market, differ widely, and the damage-claim prices, not wholly representing actual selling prices, also differ widely. Such variations in *ex parte* statements, intended to support an allegation of error, greatly diminish their force, especially when the finding challenged is not absolute and the evidence relating to it is stated to be indefinite and unsatisfactory. But granting to these estimates of value all the weight of consistent and established facts, we are still unable to find in them any adequate ground for modifying our decision. Whatever undervaluation may have been placed upon this commodity was altogether too slight to influence the vital conclusion. Not only did the petitioners neglect their opportunity to controvert the complainant's evidence upon this point, when, for aught that appears, the proof was readily obtainable, but the actual values now insisted upon are not so different from those assumed in the finding as to indicate error in the results arrived at. Undeniably the market price of an article bears a material relation to the proper charges for its transportation, but it is by no means the only circumstance to be taken into account. It is an important, but not a controlling element in fixing the reasonable rate. It is not the precise, but the approximate value which serves the purposes of tariff-making;
296 maximum prices and market fluctuations are of little moment. Exactness in details is desirable, but cannot be essential. Minor inaccuracies, not amounting to gross and radical error, are quite insufficient to impeach the substantial correctness of findings based on numerous and diverse considerations, or require the alteration of rulings to which they relate. The market price of oranges may have been somewhat greater than the figures stated in our report, but the difference is neither important nor misleading.

Similar observations apply with equal force to the claim advanced that the profits realized by growers exceed the estimate contained in the report. The question of profits is involved in the question of prices and requires no independent comment.

It is alleged in the second place that the commission erred in referring to a cotton tariff, which took effect September 12, 1891, some months subsequent to the hearing, and in comparing the same with the orange rate in question, because among other reasons, the defendants had no opportunity to explain the circumstances under which that tariff was adopted. The allusion to this recent cotton rate was in connection with a former and higher tariff on that article, which was put in force October 3, 1889, and was, therefore, a legitimate subject of comparison. By way of argument and illustration the rates and values of cotton and oranges were contrasted in the sixth finding. The use of the older tariff for this purpose is not objected to, and it is impossible to see how mere reference to the fact that a later schedule materially reduced the rate on cotton could prejudice the defendants. It was stated in the same connection, and not here charged to be error, that the gross value of a ton of oranges at $2.00 per box, was $50.00, and of a ton of cotton

from $180.00 to $200.00; while the rates on cotton under the former tariff were not quite double those on oranges, and by the
297 latter tariff exceeded the 40-cent orange rate only about twenty per cent. This change in the cotton rate was not stated nor could it be understood to be the essential fact considered; and the elimination of the tariff objected to would not weaken the use of the prior schedule for purposes of comparison, or materially impair the accuracy of the finding. The lowest value of a ton of cotton, $180.00, compared with $50.00, or even $60.00 for a ton of oranges, with rates on the latter nearly double those on an article worth three times as much might well be thought significant; the circumstance that a lower cotton rate is now in force could not be deemed important. That no substantial error was committed by this incidental reference to a tariff not strictly in evidence is too plain for serious discussion.

It should perhaps be mentioned that the affidavit of Mr. Sorrel shows that he referred, in his testimony at the hearing, to compressed cotton, which did not clearly appear from the minutes. The present statement is doubtless in accordance with the fact, but the removal of this uncertainty adds nothing to the case except the correction of a mere detail.

The third allegation is that the commission erred, in the seventh finding, by stating that, "as to the lines from Florida points of the Savannah, Florida & Western Railway and Ocean Steamship Company, cars carrying oranges north generally return loaded." This language was used immediately after the following sentence: "The freight coming south via Portsmouth and Norfolk and via the all-rail line is comparatively small, but more or less comes by the Ocean Steamship Company via Savannah." Defendants claim to be able to show that in fact more than half of such cars return empty. With reference to the lines other than the rail and
298 water lines through Savannah, the commission stated that "most other orange cars return south empty."

The finding actually made appears to us as favorable to the defendants as the evidence warranted; and if in fact more than half of the returning orange cars on this particular line are empty, instead of "generally" loaded, the corrected statement is immaterial to the general scope and purpose of the finding. The obvious design was to show that while one road secured more or less return loading, very little was obtained by the others. Whatever difference there may be between the record testimony on this point and proof which could now be given, would have no important bearing upon the other and controlling facts which induced the original ruling. The same result would have been arrived at upon the assumption that this line received no greater benefits from south-bound traffic than the other roads, and its more favorable situation in that respect merely fortifies the reasons for the conclusion reached.

It is further alleged that the commission erred in assuming the same distances from the various basing points to the respective destinations, whereas in fact there is considerable difference in that

respect; and it is also suggested that this variation makes the rate per ton per mile on the Savannah, Florida & Western railway different as to each of these places. This criticism is technically correct; but the variations in distance of these several localities from New York and other Northern destinations are so trifling, in comparison with the long haul from all the Florida points, that they can obviously be disregarded without prejudice to the defendants. Using the 172-mile haul from Jacksonville, the Savannah, Florida & Western received 1.88 cents per ton per mile for its proportion of the old rates, and gets 2.6 cents under the advanced rate. Taking the average distance from all the base
299 points, which defendants now state is 197 miles, the figures are respectively 1.65 and 2.28. The advance in one case amounts to .72 cents per ton per mile and in the other to .63 cents, a difference of only nine-tenths of a mill. Even assuming, what the defendants have not asserted, that the traffic is so divided between the various basing points that the average distance is a just basis of calculation, the change in figures, necessary to correct the alleged error in respect to the rate per ton per mile, is wholly insignificant. Besides, the commission did not find these distances to be the same. It is distinctly set forth in a foot-note to the table on page 10 of the report, that "mileage given above is from Jacksonville." The same note also says, "divisions apply from Jacksonville and Callahan only," meaning of course the division given in the table. Again on page 12, in treating of the proportions of the through rates, the commission used Jacksonville as an illustration, and evidently did so for the sake of convenience throughout the whole opinion. Absolute accuracy upon this point would have requried numerous and complex computations of no value in themselves and throwing no light on the general question.

The fifth claim is that the commission was in error in considering the proportion of the through rate which the Savannah, Florida & Western Railway Company receives, and in practically determining therefrom that the orange rate was five cents too great; and leave is asked to show the origin of this division, the reasons therefor and its reasonableness.

The affidavits of H. S. Haines, vice-president of the Savannah, Florida & Western railway and G. M. Sorrel, general manager of the Ocean Steamship Company, are submitted in support of this allegation. Whatever may be the origin and reasons for the division of through rates by the defendants, they can have no
300 possible effect upon the consideration by the commission of such divisions as they actually exist in an investigation of rates where all the different lines concerned in the traffic are parties and equally subject to the provisions of the law. But it was specifically stated in the opinion that, "while the complainant has no interest in the division the defendants make between themselves, and that division does not determine what the charge to the public should be, yet it is not without significance in determining what are reasonable rates for the whole distance on the lines in question." The subject of investigation is the aggregate charge of several con-

necting carriers for through transportation. Each of them participates in the service and shares in the compensation. They all agree as to the proportion which each shall receive from the revenue produced by their joint operations. The division of earnings under this arrangement is an incident of the traffic which may properly be noticed. It is pertinent to the inquiry. As an independent fact it determines nothing, but it has some bearing and significance and may fairly be taken into account in forming a judgment upon the whole case. Our condemnation of the advanced rate in question did not result solely from the evidence relating to its division, although the large proportion allowed to the Savannah, Florida & Western was not without influence in that direction. It was one of the reasons for considering that rate unreasonable, and in so regarding it no error was committed.

The sixth charge is that the commission did not give due weight to the circumstances that lumber, naval stores and fertilizers formed more than half the tonnage of the Savannah, Florida & Western, and that the cost of hauling these articles is so moderate as to account for the comparatively low average expense to this road

301 in carrying a ton of freight a mile. This allegation simply assumes error. The statement put in evidence, as part of the testimony of the general freight agent of that company, and which is included in the sixth finding of the commission, shows the number of tons of all the principal articles transported by that company during the year ending June 30, 1890, to be 1,099,460, of which 358,672 tons were lumber and wood, 136,121 tons naval stores, and 65,652 tons fertilizers, or an aggregate of 560,445 tons. This statement was before the commission and was duly considered, as was also the table on page 11 of the opinion, stated to have been made up from reports of the defendant companies of the receipts and estimated cost of carriage per ton per mile during the fiscal years ending in 1889 and 1890. By that table the commission was informed, among other things, that the Savannah, Florida & Western received for carrying a ton a mile during the year ending in 1890, over and above estimated cost, 4.13 mills, and that counting the Atlantic Coast Line roads as one and the Washington Southern roads as one, it received considerable more per ton above estimated cost than either the Richmond, Fredericksburg & Potomac, Philadelphia, Wilmington & Baltimore, Baltimore & Potomac, Washington Southern, Pennsylvania or Florida Central & Peninsular roads, and was only exceeded by the Seaboard & Roanoke, Atlantic Coast Line roads, and by the Charleston & Savannah, under the same management as its own; while it was under a greater estimated cost of carrying a ton a mile than the Richmond, Fredericksburg & Potomac, Washington Southern, Pennsylvania, Charleston & Savannah or Savannah or Atlantic Coast Line roads, and such cost was only exceeded by the Florida Central & Peninsular, Baltimore & Potomac, Philadelphia, Wilmington & Baltimore and Seaboard & Roanoke.

302 The fact that such cost was comparatively low is entitled to much consideration, but cannot be controlling in the light of

information afforded by this table. This estimated cost was deducted from the rate per ton per mile, received by this company from its proportion of the orange rate, to show how much above estimated general cost that proportion was. (See page 12 of complaint filed before the I. C. C., Dec. 30, 1890.) In this connection the commission took occasion to say, that "no definite and reliable data are furnished as to the actual cost to the carrier of the orange traffic. (Page 13 of complaint filed before the I. C. C. Dec., 30, 1890.) Qualified by this statement it was quite suitable to use the estimated cost for purposes of illustration, and any inferences to which it lead were clearly legitimate. The character of the commodities making up the gross tonnage of this road, the revenue derived from its transportation and the relation of the orange income to its other earnings, were fully and carefully considered; and the commission, as they still believe, were sufficiently impressed by the evidence in that regard. The proof upon this point was persuasive, but not convincing. Against it was other testimony deemed more weighty and conclusive. Nor does it appear that anything new can be shown or said on this branch of the case. All that is now claimed or suggested was brought to our attention in the original proceeding. A rehearing would only reiterate the facts and repeat the argument. They were thoroughly considered before and the opinion then formed is unchanged by further reflection. We are satisfied that this allegation of error cannot be sustained.

The seventh error complained of relates to the perishability of Florida oranges as compared with those produced in California and the Mediterranean countries. Several affidavits, including those showing payment of damages, were presented by the peti-
303 tioning defendants in support of this contention. They are all to the effect that the Florida orange is a rich and tender fruit, so delicate in its nature that it must be carried with unusual speed, and will not endure the same delays in transportation and handling as the California or imported orange. An instance is given where a steamer towed a vessel in distress to Norfolk, which caused her voyage to New York to be extended less than 48 hours, yet claims were made by consignees of oranges on the ground that they were damaged by the delay. Conceding that Florida oranges are more perishable than those raised on the Pacific coast or near the Mediterranean sea, there does not appear to *to* be serious variation from fact in the report of the commission. Upon this point the following language was used: "Moreover, it does not appear that the rapid service and special agencies employed in the carriage of oranges are necessarily required by the nature of the commodity. While spoken of as 'perishable' in the testimony of the carriers, it is evident that this characterization is correct only to a limited extent. As is well known, oranges in considerable quantities are shipped by rail across the continent, and brought here also in numerous cargoes by slow vessels from the Mediterranean and other countries. It is an exceptional hardy fruit and well adapted to long transportation." When read in connection with what is stated further on in the opinion, this cannot be held to mean that no

rapid service and none of these special facilities are required for the traffic in question; but the dominant thought expressed is that competition between the lines for this great and growing business has been largely instrumental in bringing the service to its present state of efficiency. All fruit is more or less perishable. The term is relative, and was understood to indicate comparative qualities.

304 That contrast with other kinds of fruit was intended, is put beyond question by the language used in the second sentence after the above quotation, to wit: "In general desirability as freight it differs widely from those more delicate and short-lived products which must be speedily consumed after they are gathered and which from their inherent qualities, are ordinarily rendered valueless by accident or delay in transit." Not even the defendants will contend that the Florida orange is as perishable as the Florida strawberry. It is quite immaterial in this proceeding whether the Florida orange is or is not as hardy and well adapted to long transportation as the California or Mediterranean orange. If it is in fact exceptionably hardy and well adapted to long transportation as compared with other fruits, the statement was correct and there is no error in the finding. The fact that Florida oranges are carried in large quantities by water routes a thousand miles long, is a sufficient answer to the charge now under consideration. Here are several different lines in rivalry for this patronage. One is the quick all-rail line; others go by rail and water through Savannah and Portsmouth; others still by river and ocean from Florida ports. They differ in their facilities and in the length of time required for reaching a common market. All these carriers were parties to the proceeding. All of them agree as to the difference which shall exist between rates over their respective routes. All render special service in competition with each other. Yet under this arrangement the water lines get a share of the business which warrants their continued efforts to secure it, and indicates their ability to carry and deliver the traffic in satisfactory condition. The situation illustrates the legitimacy of competition in facilities and service, as compared with the frequently illegitimate and always fickle competition of unequalized and unstable rates.

305 It occurs to us, also, that the argument based upon this claim of extreme perishability loses much of its force, in view of the small amount paid for damages occasioned by loss or delay in transit. Compared with the volume of this traffic and the large revenue which it produces, the sums refunded to injured shippers appear quite insignificant. On two years' business the total damages paid by the Savannah, Florida & Western, for which it was wholly responsible, appear to be less than $800; yet during that period it carried at least 125,000 tons of oranges, on which its charges were nearly half a million of dollars. Tested by this standard, which gives some indication of the hazard attending its transportation, this article does not seem to be exceptionally fragile or its carriage unusually precarious.

The eighth ground relied upon is not so much an assignment of error as an application to introduce evidence showing that the con-

ditions affecting the transportation of oranges by rail to New York and Chicago, respectively, are substantially the same. We are unable to see the material bearing of testimony to that effect, for the fact might be admitted without aiding the defendants or leading to any different conclusion. Whatever may be the similarity in other respects between the railroads running from Florida to the Northwest, and those by which her productions reach northeastern destinations, the latter are operated against water competition to which the former are not subjected. But even if this modifying feature were absent, the comparison proposed would be of little value and can safely be excluded.

The remaining assignment of error relates to that provision in the original order which awards reparation for injuries resulting from the advance of rates in November, 1890, so far as that advance was adjudged to be unlawful. The contention of the petitioners
306 that some intimation was made during the trial, to the effect that such a requirement would not be imposed upon the carriers, is not sustained by the stenographers' minutes or by the recollection of the only present member of the commission who attended the hearing. The record discloses no remark or observation which accords with this alleged understanding. The demand for damages was plainly asserted in the complaint and unmistakably insisted upon while it was under investigation. In the brief of complainant's counsel, which was served upon the opposing attorneys before theirs was submitted, the question of reparation was discussed at considerable length, but the answering argument, while setting forth several reasons against the allowance of any such claim, contains no suggestion that its consideration was unexpected, or that its reiteration was a surprise. The direction for restitution was the logical outcome of the main determination, and obviously necessary to a complete and consistent decision. The circumstance that the nominal complainant was not a shipper, and, therefore, had no pecuniary interest in the controversy, does not affect the principle involved, nor make unsuitable a ruling which fixes the basis of reparation to those who have paid unlawful charges. If the position of the petitioners upon this point is sound, no injury to them can result from the order, for they will be entitled to a jury trial upon the issue to which it relates. On the other hand, a failure to pass upon the question of damages in this proceeding might embarrass or defeat the prosecution of claims by those whom the defendants have compelled to pay the authorized rates. Nothing upon this proposition need be added to the language used by us in a recent decision, except to say that this case was brought subsequent to the amendment therein referred to.

"A procedure for the enforcement of lawful orders of the
307 commission, founded upon controversy requiring trial by jury, having been provided by the amendment of March 2, 1889, of the sixteenth section of the act to regulate commerce, it is the duty of the commission to pass upon the question of reparation for past damages whenever a claim is made therefor." Macloon *vs.*

Chicago & Northwestern R'y Co., 3 Inters. Com. Rep. 711, 5 I. C. C. Rep.

We have thus reviewed the alleged errors and mistakes in the report and opinion heretofore announced in this case, and are unable to find in them any tenable ground for reopening the investigation. While some of the statements included in the various findings are technically incorrect, the variations from exact figures and actual facts are quite insufficient to occasion serious misgiving. The discrepancies pointed out are trifling in character and inconclusive upon any material issue. All that is now claimed by the petitioners may be conceded without varying the essential features of the controversy or in anywise disturbing the original conclusion. The circumstance that the tariff in force prior to November, 1890, was maintained by the defendants for several years, during which period the traffic largely increased and most of these special facilities were provided, with no satisfactory explanation of the great advance ordered at that time, far outweighs, in our judgment, all the mistakes and errors alleged to have been committed. So far from leading us to question the correctness of our former decision, we are rather confirmed in our belief of its substantial justice. The thorough re-examination of the case which this application has induced increases our conviction that the action of the carriers in making that advance, except to the extent which received our sanction, was from the beginning unreasonable in fact and therefore contrary to law. Giving due regard to all that is now
308 suggested, and taking into account the corrected and supplemental facts which a rehearing might furnish, we remain unshaken in our confidence that the rate already allowed affords adequate compensation for the services rendered, and find no reason for supposing that another trial would alter our opinion.

The application must be denied.

309 At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 9th day of February, A. D. 1892.

Present: Hon. William R. Morrison, Hon. Wheelock G. Veazey, Hon. Martin A. Knapp, Hon. James W. McDill, commissioners.

THE RAILROAD COMMISSION OF FLORIDA
*vs.*
THE SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY *et al.*

An order based on the findings of fact and conclusions of the commission as set forth in its report and opinion herein, having been issued on the 29th day of October, 1891, and never having been superseded, suspended, or modified, and an application for rehearing of the case having been filed by the Savannah, Florida & Western Railway Company and other defendants on the twenty-second day of December, 1891, and hearing thereon having been had on the nineteenth day of January, 1892, and the commission having on the date hereof made and filed a memorandum containing its opinion on said application—

It is ordered, that said application for rehearing be and the same is hereby denied, and that said order of October 29th, 1891, remain in full force and effect.

310–312 Interstate Commerce Commission, Washington, D. C.

I, Edward A. Moseley, secretary of the Interstate Commerce Commission, do hereby certify that the papers hereto attached and entitled memorandum and order of the commission, are true copies of the originals now on file and recorded in the office of this commission.

In testimony whereof, I have hereunto subscribed my [SEAL.] name, and affixed the seal of the commission, this 18th day of February, 1892.

EDW. A. MOSELEY, *Secretary.*

313 A. C. KNAPP, a witness on behalf of complainant, having been duly sworn, testified as follows:

Direct examination by Mr. COOPER:

Q. Do you hold any position in connection with any railroad, and if so, what?

A. I am traffic manager of the Ga. Southern & Fla. railroad.

Q. That is a road running from Macon to Palatka, Fla.?

A. Yes, sir.

Q. When did you receive notice of the increase in orange rate from Florida basing points to northeastern cities?

A. Well, I received a telegram by the various lines that was sent out. I have heard it given as 11th or 12th. I received it just the same time as the others. I do not recollect specifically what the date was. I did not bring the telegram with me.

Q. You issued a notice based upon that?

A. No, sir.

Q. Did you not issue a notice withdrawing your orange rate?

A. We had the same orange rates in at Palatka which were the same, inasmuch as our connections would not protect our rates we withdrew and had no rates at all.

Q. Well, Mr. Knapp, in that notice which was issued to the public, have you a copy of that notice?

A. No, sir. I may be able to get a copy of it from the Jacksonville office.

Q. I would like to have you get it. I want it in later.

A. Yes, sir.

314 (This notice was afterwards offered in evidence and is marked Exhibit No. 17.)

Q. You will probably recollect that in that notice you stated in effect that the Ga. Southern & Fla. withdrew its orange rates from Palatka because the northern connections had raised rates and you could not consistently join in it?

A. We declined to advance rates from Palatka.

Q. In making that statement in your notice, what were the reasons that caused you and your road to say that you could not consistently join in that advance?

A. Well, there were several reasons. In the first place, in making the basing points Jacksonville and Gainesville and then Palatka was put ten cents higher, we could see no reason why Palatka should be so much higher than these points, and in the discussion of the rates I held to that position. Of course I had nothing to do with the rates that might prevail from Jacksonville. I was perfectly willing, so far as our road was concerned, to work on the rate then in effect from Palatka.

Q. What was that rate; was it the same rate previously from Jacksonville?

A. A little higher. If I had followed out the line of rates as indicated it would have raised Palatka rates 10 cents higher.

Q. That raise which was made of 10 cents higher at Jacksonville and other basing points, was also made from Palatka?

A. Yes, sir.

Q. Well, then, in this raise the difference between Palatka and other base points was not proportionately increased?

A. Well, if there had been no advance in the rate I should have held that Palatka should be lower, but as there was an advance in rates at other points, I held that Palatka should be the same, as I could see no reason why the rate from Gainesville should be less than the rate from Palatka.

315

Q. You stated that you were opposed to the rate from Palatka?

A. Yes, sir.

Q. Your road was willing to go under the old rate?

A. Yes, sir; in the judgment of the gentlemen representing the various interests it was thought that the rates were too low and that they had been worked very much longer than they should have at the low rate. I would have been prepared to yield to their judgment, although I thought the advance of 10 cents was too great, still I was not in a position to—our road was not in a position—*to* have done anything more than accepted the general opinion on that subject, and would have dropped in with the others but for the fact that they carried Palatka up also, and I was not prepared to do that.

Q. In your judgment, the advance of 10 cents was too much. What do you base that upon?

A. In the first place it is an advance of 32⅓ per cent. of the rate. The rates must either have been ruinously low in the first place or the advance was too marked. As a matter of suggestion in the simple discussion of the subject with the traffic department before the presidents and general managers reached their conclusions, I suggested that if in their judgment it was necessary to advance the rate it might be for a less amount than that. Then, also, I held that the differentials between the water lines and the all-rail lines were too great. In that connection I suggested the rate of 35 and 45. That would have been an advance of 2 cents by rail and 5 cents by steamship.

Q. You have not been very long in the business here?
A. Our road has been down to Palatka just a year.

316 Cross-examination by Mr. ERWIN:

Q. Is it not a fact that you did consent to the raise of the rate provided they would raise the rate from Gainesville?
A. No, sir; I never consented to the advance of the Palatka rate.
Q. Did you not want the rate from Gainesville advanced from 40 to 50 cents a box?
A. No, sir; I held that Gainesville is on the line with Jacksonville and that Palatka must have the same rate.
Q. What is the distance to Savannah from Palatka by your line and the S., F. & W.? Is the shortest line from Palatka to Savannah by your line or around by Jacksonville? Which is the shortest?
A. If we were going to work through Savannah we would work by Valdosta or Macon.
Q. What is the distance via Valdosta?
A. I do not base my opinion by the rate via Savannah?
Q. What is the distance to Savannah?
A. It is about 300 miles.
Q. But if you had been shipping to Savannah you would not have shipped via Valdosta; you would have taken it around by Macon?
A. Yes, sir; I would have taken it that way if I had shipped by steamer at all.
Q. What is the distance around by the way of Macon?
A. 285 and 192.
Q. How much is all that?
A. That is in the neighborhood of 500 miles.

317 Q. And that is the way you had to ship to Savannah? That is the way you would have shipped, is it not?
A. You mean that is the way I would probably ship?
Q. That is the way you make shipments to Savannah?
A. Yes, sir.
Q. And it is 500 miles the way you would naturally ship?
A. Yes, sir.
Q. What is the distance from Jacksonville to Savannah?
A. 175 miles.
Q. And the distance from Palatka to Jacksonville?
A. 56 miles.
Q. And that together makes 231 miles. So that it would be 231 miles around through Jacksonville, and around by your route it is 500 miles?
A. I cannot see where the distance to Savannah comes in at all.
Q. You are out of the steamship business practically?
A. Yes, sir.
Q. You could not participate in that business?
A. I do not know.
Q. You did not participate in it?

A. We do not figure on the steamship line from Savannah?

Q. When you ship by all-rail to New York, how do you ship?

A. We ship through Macon, or through Athens, or through Atlanta and over the Richmond and Danville.

Q. Now, how much longer is that than by the Atlantic Coast Despatch?

A. It is a little difference in distance, but not enough to make any difference in transportation of freight.

318 Q. It is about 300 miles?

A. Not as much as that, I think.

Q. The distance from Palatka to Macon is 286 miles?

A. Yes, sir.

Q. And from Macon to Atlanta is how much?

A. 90 miles.

Q. That makes about 375. Now the distance from Atlanta to Washington is how much compared with the distance from Savannah to Washington?

A. I do not suppose there is much difference.

Q. About the same distance from Atlanta to Washington, and 375 miles to Palatka, while it is 230 from Savannah to Palatka, so there is a distance of 145 miles at least?

A. I do not know the exact distance.

Q. It is a longer distance?

A. It is not enough in transportation to make any difference to the handling of freight.

Q. Do you think that 150 or 200 miles should make any difference at all in what you ought to charge?

A. You are figuring that against Jacksonville, now, how much do you figure it from Gainesville?

Q. I will ask you, how far is it from Gainesville to Savannah. Suppose you take Gainesville. I do not know the figures myself, but I presume you had some foundation, some substantial foundation for what you said. What did you say Gainesville had to *to* do with it? Why should the Gainesville rate be the same as the Palatka rate?

A. Well, it certainly should not be lower. There is not much difference between the two places.

319 Q. Suppose it is nearer to New York by the line which carry the oranges than Palatka is from New York by the line that carried the oranges, ought not the rate to be cheaper?

A. I do not know. Palatka does not get the rates that it ought to get by the different routes. And another thing when you come to discuss the proper rate from a point it is not always absolutely the number of miles, but it is the fact of competition in the territory for business.

Q. That is true. You think that competition ought to govern to a certain extent and competition did make a lower rate?

A. We consider that the rate would have been a reasonable rate had it been about the same as from Gainesville.

Q. On what grounds do you base your idea that that rate was too high? Had you any experience in the business?

A. I had considerable experience in the transportation business.

Q. In the orange business?

A. It is not different from the handling of other perishable fruit.

Q. But you had not experience in carrying oranges out of Florida to Eastern markets?

A. I had a knowledge of the rate per ton per mile which should have been charged.

Q. I am asking you if you have had any actual experience?

A. I had not been in Florida but twelve months.

Q. In a new business?

A. I had been handling oranges more or less in connection with the Central Railroad of Ga.

Q. What position did you hold on the Central?

A. I was agent at Macon.

Q. Do you handle oranges through there?

320 A. Yes, sir; I was also chief clerk in the general superintendent's office.

Q. Did you make rates on the Central railroad?

A. I made some of the rates to the West.

Q. Those oranges were going West?

A. Yes, sir.

Q. And do you know whether or not the rate to Chicago is higher than the rate to New York?

A. Yes, sir.

Q. Your road did more Western business than Eastern business?

A. Yes, sir.

Q. So you were willing to have the rates on the Eastern business and the Western business raised. That is human nature.

A. There has never been a discussion of the advance of Western rates.

Q. You are perfectly willing that the Eastern rates should remain the same, or should even be more?

A. I do not think there is any dog in the manger business about it. I think the condition is this: These rates had been in effect for a long time, some four years, and I could see nothing in the conditions to warrant so great an advance.

Q. Provided they were remunerative.

A. If the former rates were not remunerative then they had been hauling them at a very low rate for many years.

Q. As a matter of fact yours is a new road?

A. Yes, sir.

Q. How long have you been to Palatka?

A. About a year.

Q. How long since you have been in the hands of the receiver?

A. About a month.

321 Q. It is the property of the Macon Construction Co.?

A. Yes, sir.

Q. Have you ever earned operating expenses?

A. We have earned operating expenses and fixed charges from the beginning?

Q. Since when?

A. Since the first day of operation.

Q. You include in those earnings——

Mr. COOPER: I think, your honor, that that has gone far enough.

Mr. IRWIN:

Q. Then I do not care to argue that question. The road is in the hands of a receiver anyway.

A. Yes, sir; but that does not discredit the road in its earning capacity.

Mr. COOPER: You stated, as I understand you, that you formed that opinion as to the unreasonableness of this sudden and great advance in oranges from having had knowledge of the movement north for a number of years connected with the Ga. Central?

A. Not exactly that. I said specifically I had not much acquaintance with the movements east.

Q. My question was not directed particularly to that. But is there any special difference in the handling of cars loaded with oranges going north from Florida base points from handling any other cars of freight?

A. All perishable freight has special attention. Our sched-
322 ule from Palatka the last season has been very fair. To Atlanta it is 28 hours. We make special orange schedules fitted to connections north. Services given to this perishable fruit business have increased. Not that the trains run so much faster, but the schedules are more closely adjusted.

Q. Those trains that move oranges north, are they exclusively orange trains?

A. I have no knowledge of that other roads are doing. These trains would carry all the oranges that are given and anything else that might be necessary to fill up the train.

Q. Is that not generally the case with all the trains?

A. I think so. I do not suppose the road would start out the train half full because it did not happen to have a train-load of oranges.

Q. Have you any knowledge of the character of the movements northeast from Savannah? I mean as to the movements of all-rail oranges, as to how it is moved and by what trains?

A. No, sir.

Q. You stated in answer to a question from Mr. Erwin as to what you based your opinion as to this advance, and you said something about a remunerative rate per ton per mile, or something of that sort. Do you base your opinion upon any consideration of that sort?

A. I had not figured it closely at the time, but the business had been handled all rail and steamship at those rates and I could not feel that it had been handled so long at such an absolutely low rate it may have been that the different conditions may have made it less remunerative and therefore some advance might have been called for, but I did not think the advance should have been so great as it was.

323 Mr. ELLIOTT:

Q. Do you know anything about the question as to whether the rate prevailing then had been remunerative before?

A. I only know it had been in effect a long time.

Q. You do not know whether it paid transportation lines or not, do you?

A. I cannot tell anything about the other lines. I know it would have been satisfactory so far as we were concerned.

Q. You had been in the business how long, you say, in the transportation of oranges?

A. Well, I had been in Florida on this road for 12 months. I had been railroading all the time however.

Q. You had the management of that road since its construction?

A. Yes, sir, traffic manager.

The CHAIRMAN: We will now take a recess until half past two o'clock.

JAMES COLHOUN, a witness on behalf of the complainant, having been duly sworn, testified as follows:

Direct examination by Mr. COOPER:

Q. Mr. Colhoun, do you hold any position in connection with any railroad company?

A. Yes, sir, I am general freight agent of the Jacksonville, Tampa & Key West railway and Fla. Southern railway.

Q. Where are your headquarters?

A. At Jacksonville.

324 Q. Mr. Colhoun, did you receive any notification of the increase in rate made to take effect Nov. 25th?

A. We did.

Q. When did you see that notice?

A. On the morning of the 12th November.

Q. In what shape did you receive it?

A. By telegram.

Q. What was the character of the telegram?

A. The telegram read: "At a meeting of the various lines held in New York it had been decided to advance the rates 10 cents per box between Jacksonville and other base points and the North Atlantic and seaboard points, Baltimore, Philadelphia and New York."

Q. Do you know whether or not the rate for previous years was made by agreement between the water lines and the rail lines?

A. That is my understanding. It has been customary within the two years that I have been in Florida at the beginning of the orange season to call a meeting of the roads interested in the traffic and agree upon rates to be charged for the coming season.

Q. Then I understand from that that the rates which were in effect prior to this raise were agreed rates between the lines. Is that a fact?

Cross-examination by Mr. ERWIN:

Q. When did you come to Florida?

A. The 13th of June, 1889.

Q. So that the only rates that you can have any personal knowledge of were the rates which were made in the fall of that year and 1890, last year? Rates put in last year and the year before. Were you present at any meeting of the transportation lines in the fall or early winter of 1889?

325 A. Yes, sir.

Q. At which the rate was agreed upon?

A. Yes, sir.

Q. You were present at that meeting? What lines were represented?

A. The Florida lines were represented, the Fla. Central & Peninsular, our own line, the Savannah, Fla. & Western R'y, the Clyde line, the Atlantic Coast Despatch and the Atlantic Coast line.

Q. The Atlantic Coast Despatch and Atlantic Coast line; who represented the latter?

A. The Savannah, Fla. & Western R'y.

Q. Who undertook to represent at that meeting the Atlantic Coast line, individually I mean?

A. Well, there were three, two at least from Savannah, Fla. and Western. There were Mr. Owens and Mr. Hardee.

Q. You say they undertook to represent the Atlantic Coast line?

A. At that meeting, certainly. The Savannah, Fla. & Western certainly voted for that line?

Q. Is it your conclusion or a fact that Mr. Owens and Mr. Hardee undertook to bind and represent the Atlantic Coast line to any rate at all?

A. So I understand it.

Q. I ask if that is your conclusion?

A. Yes, sir.

Q. Did those gentlemen or either of them undertake to represent the Pennsylvania railroad?

A. No, sir; not as I understand it.

Q. The Penn. railroad is one of the carriers a party to the Atlantic Coast Despatch, is it not?

A. We believe it is; yes, sir.

Q. It is a fact that it is, is it not?

326 A. I do not understand that the Penn. railroad is a part and parcel of the Atlantic Coast line.

Q. For what reason?

A. For the reason that they do not publish their traffic in that way.

Q. The R., F. & P., the Richmond, Fred-ricksburg & Potomac, is that a party to that line, the Atlantic Coast Despatch line?

A. It is a part and parcel as I understand it, of the Penn. system.

Q. The R., F. & P. you know that for a fact?

A. I do not know it, I only understand it is so.

Q. It is merely your conclusion that Mr. Hardee and Mr. Owens undertook to represent the Atlantic Coast line at that meeting?
A. Yes, sir.
Q. They did not state they did?
A. They did not specifically state.
Q. Was the Clyde line represented?
A. Yes, sir.
Q. By whom?
A. By Mr. Eager.
Q. Was the Mallory line represented?
A. Yes, sir, by C. H. Mallory.
Q. Where was that meeting held?
A. At the Clyde Line office, No. 5 Bowling Green, New York city.
Q. When was that?
A. I think that was in August, 1889.
Q. That is the only meeting you have personally knowledge of?
A. That is the first meeting I attended. I have attended others also since.

327 Q. I am speaking of the meetings fixing the rates for the orange business. Did you attend the meeting fixing the rate for 1890 and 1891?
A. Yes, sir.
Q. At what place?
A. In New York at several meetings.
Q. Who were present?
A. The representatives of the roads that I mentioned as being present at the first meeting.
Q. This was not the presidents' meeting?
A. No, sir.
Q. Was anything determined at that meeting then in 1890?
A. Nothing determined; no, sir.
Q. As a matter of fact at this meeting of 1889 there was no person representing the lines north of Charleston, but it was your conclusion that Mr. Owens and Mr. Hardee did?
A. I spoke of the Atlantic Coast line. Mr. Emerson of the Atlantic Coast Despatch was at that meeting in August and he represented the line from Charleston to Richmond.

Mr. ELLIOTT:

Q. Where was that meeting held?
A. The 1889 meeting was held at No. 5 Bowling Green, New York.
Q. In August, 1889?
A. If my memory serves me right, yes, sir.

Mr. COOPER:

Q. You were asked whether at that meeting held by the freight and traffic managers in New York any conclusions were arrived at, and you stated they did not.

328 The CHAIRMAN: What meeting are you asking about now, in 1889 or 1890?

Mr. COOPER: I am asking about the one in 1889. The rate fixed for 1890 and 1891.

You — asked whether they came to any conclusion and I understood you to say that they did not. Was it on account of their failure to reach a conclusion that the presidents, as I see, took hold of the matter, was referred to the president-?

A. The representatives of the lines present could not agree as to the rate, and the matter was referred back to the president- for such action as they might determine.

Q. And then on that reference this resolution of advice was adopted by the president-?

A. I would so take it.

Q. That is all.

Mr. ERWIN:

Q. As a matter of fact it was to your interest, to the interest of your line that Jacksonville, Tampa & Key West, your local rates being charged in any event to make the through rates to basing points northward as small as possible?

A. Not necessarily.

Q. The lower the rate the larger the shipment.

A. I think it would be to Eastern markets.

Q. Then it would be to your interest to have the through rate as low as possible?

A. It might be so construed.

Q. What is the fact about it?

A. Well, the lower the rate the greater the chances would be for a greater volume of business reaching the market.

329 Q. You get the same local whether the through rate is 40 cents of 50 cents?

A. We would.

Q. These oranges went to New York and Chicago?

A. Yes, sir.

Q. So that it was absolutely immaterial to you what the through rate was from the basing points north except that possibly you might get more oranges to haul if the rate was small?

A. That might be so.

Q. Then naturally you were a low-rate man for a through carriage.

A. No, sir.

Q. You are a high-rate man for a through carriage?

A. To answer frankly, I will say that the Jacksonville, Tampa & Key West upholds any advance in rates.

Q. Because it is not to their interest. You get the same local rate anyway?

A. We explained what our reasons were.

Q. If you had been representing one of these carriers north you would have been on the other side?

A. I do not think I would.

Q. A hard thing to determine is it not?

A. It is not a hard thing for a man to determine what is a reasonable rate.

Q. I have no doubt but what the commission will be glad to hear that because they have been perplexed several times themselves and perhaps you can assist them. In this case, as I understand your idea, was undoubtedly it was to your interest to have a a low rate from the basing points north?

A. I have not said so. We did argue that the rate should not be advanced for the very good reason that there did not appear any reasonable ground for advancing that rate when other articles had the same rate; and we had no voice beyond the basing point. They gave us an opportunity to ventilate our opinion and we did it.

Q. You charged every cent you could under the Florida railroad commission rate?

A. We did not. Our local rate of the Florida railroad commission from Sanford to Jacksonville was 16 cents per box and our actual rate is 10 cents.

Q. You charged 10 cents from Sanford?

A. Yes, sir.

Q. Are there any other lines that compete with you at Sanford?

A. Yes, sir; water lines.

Q. Have you any non-competitive point where you charge less than the railroad commission permits you?

A. Yes, sir; there are some points on the line of the Fla. Southern railway where we could charge higher rates than we do now; while they are non-competitive they are still very near the Fla. Cent. & Peninsular road. While direct competition would not govern, the fact that we do not care to charge more for the intermediate points we drop to the terminal rate.

Q. In other words you do not care to make a larger charge for the short haul than for the long haul.

A. Yes, sir.

Q. What is the distance from Sanford to Jacksonville?

A. 125 miles.

Q. You are allowed 16 cents for that?

A. 16 cents is my recollection.

Q. But being competitive business you charge 10?

A. Yes, sir.

Q. The rate from Palatka is 10?

A. Yes, sir.

Q. What is the distance from Palatka to Jacksonville?

A. 56 miles

Q. So you charge 10 cents a box for carrying oranges 56 miles?

A. Yes, sir.

Q. And the distance from Jacksonville to New York has been testified to be 1,075 miles and the boat gets for that 40 cents and the all-rail line gets 53 cents, and you get for carrying 56 miles 10 cents?

A. We do.

Q. Is that the highest rate you charge on your line for similar distances?

A. 10 cents from Palatka for 56 miles is also based on the rate of the St. Johns River line. They charge the same rate from Palatka as they do from Sanford, and we do the same. On the Fla. Southern road we get very much higher rates. We get the full commission tariff excepting where the competition of the Fla. Cent. & Pen. forces us to accept less and we desire not to exceed the terminal rates.

Q. So that from Palatka, 56 miles, you get 10 cents and have still higher rates?

A. Yes, sir; from some places.

Mr. LOGAN:

Q. As I understand you there is no change of rate on your line at all?

A. There was not. These rates are fixed by the Fla. railroad commission.

Q. Then the notices that went over your line were not advising of any change of rate?

A. No, sir; there was no advance in our rate.

332 Mr. ELLIOTT:

Q. Did I understand you to say positively that Mr. Emerson was present at the meeting held at No. 5 Bowling Green, N. Y., in Aug. 1889? As the representative of the line, the Richmond & Charleston?

A. That is my recollection.

Q. I want you, if you please, to be as nearly positive as you can about it because we expect to put in testimony on that point.

A. I will answer now that it is barely possible that Mr. Emerson was not present at that meeting. My memory is that he was.

Q. Your memory is that he was. You are not prepared to state positively.

A. I will explain. Mr. Emerson usually attends those meetings and I might be in error about his being at that particular meeting, but my recollection is that he was at that meeting.

Q. I understand, then, that your memory that Mr. Emerson was at that meeting is due to the fact that Mr. Emerson generally attends meetings representing that line. That is the only reason you have for believing he was present at that meeting?

A. That is not the only reason.

Q. Was it the other reason?

A. I think I have a recollection of speaking to him on that occasion.

Q. Are you positive?

A. No, I am not.

Q. I understood you to testify that your line had no interest whatever in the increase of rates; that you were opposed to it; that you would not be benefitted by it?

A. Not in any way so far as our revenues are concerned, we are not affected by it.

333 Q. That is all.

Mr. COOPER:

Q. Is it not a fact that the through rates from the interior points of Florida to New York are made and quoted as through rates although made up of the Florida local and the rates from basing points north, or how is that?

A. I will explain what our system is. We issue all rates up to the base points, which with us, are Gainesville, the Fla. Southern connections and Jacksonville, Savannah, Fla. & Western connections. We have one rate sheet with the rate of the Jacksonville, Tampa & Key West road. We issue these rates from the base points. Following that we issue whatever rates may be furnished us by connecting lines, and on that second sheet showing the through rate of the connecting line from the base point, we say "to make through rate add to these figures the local rate as per tariff No. so and so."

Q. Is it not a fact that the through rates are made from the sum of the local and the rate north of the basing points?

A. Yes, sir.

Recalled.

Mr. COOPER:

Q. Mr. Colhoun, there was a very extensive inquiry of your clerks as to the reason that induced you to have an examination as to notices that were posted up here. Will you state, if you can do so, as to what the reasons were?

334 A. The why I sent my clerk to see if the notice was posted or not?

Q. Yes, sir.

A. That was brought about by a conversation with Mr. Papy of the Sav., Fla. & Western and myself. I think on the afternoon of Nov. 12th, at any rate the afternoon we had the meeting at the fruit-exchange office, I called Mr. Papy's attention to the fact that in my judgment there was not time for the agents to notify shippers of the advance in rate, and we had some talk as to what competitors might do, what the Mallory line might do. I spoke to him about my competitors and he spoke particularly of Callahan. So I said I will keep my eye on my competitors, the Fla. Cent. & Pen. and see what they do. I then told my clerks to go to the Fla. Cent. & Pen. and to all the depots to ascertain whether the notices were posted, and if so, in what shape. It was purely a precautionary step of mine to know that my competitors had given the proper notice of the advance of rate.

Mr. ERWIN:

Q. How did you come to make those two young gentlemen go

and make an examination of the Sav., Fla. & West. depot. Did you send them there?

A. Yes, sir; if I had simply sent to the office of our competitors it would have been so marked that it might have been noticed so I ordered them to make a general investigation as to whether the tariffs were posted at all shipping points. I sent them to know whether the Fla. Cent. & Pen. had posted the advance. In doing that I ordered them to make a general investigation.

Q. Mr. Papy did not ask you to do that?

335 A. The idea was suggested by conversation between us. I think I told him that I would make investigation to see whether the rates were posted.

Q. How did the complainants know that?

A. I think you will find it came through and investigation of the State commission. I think I told them the last time I was in Tallahassee that the rates were not posted on the morning of the 13th.

Q. How did you come to tell that?

A. In discussing the subject.

Q. Then you tried to get even with the Fla. Cent. & Pen.?

A. I am trying to defend myself against what you imply.

Mr. COOPER:

Q. I think the inquiry into his motives has gone far enough.

The CHAIRMAN: We are pretty liberal.

Mr. ERWIN:

Q. I do not understand how it would help you?

A. I reported the Fla. Cent. & Pen. and the Sav., Fla. & West. I think Col. Olds will find on his files *of* the Fla. Cent. & Pen. had not published their tariffs on the 15th of the month.

Q. You had to make an investigation to ascertain?

A. To see whether my competitors had published the rates.

Q. How would it help you, in what way? In other words you were anxious for that rate not to go into effect?

A. I did not say anything of the kind.

336 The CHAIRMAN: Is it not better to draw the inferences for yourself when you get through your case? You made through bills did you not from your road to these points?

A. We issued through bills of lading.

Q. Now when you issue through rates, do your rates accompany the freight through, and is it collected by the terminal road?

A. Yes, sir.

Q. And are the through rates paid to you at destination?

A. Yes, sir.

Q. And the rate might be paid clear through?

A. Yes, sir; the Sav., Fla. & West. are our initial connections and pay us our charges.

Q. I mean from the basing point on?

A. The Sav., Fla. & West. would collect those charges from the terminal line and we would collect from them.

A. M. IVES, a witness on behalf of the complainant, having been duly sworn, testified as follows:

Direct examination by Mr. COOPER:

Q. Mr. Ives, have you any connection with shipping oranges from Florida, and if so, what is it?

A. I am manager of the Florida fruit exchange, and ship a good many oranges.

Q. Where are your headquarters located?

A. At Jacksonville.

Q. Have you shipped any considerable quantity of oranges as manager of the Fla. fruit exchange during the present season?

337 A. Yes, sir; I have shipped, in round numbers, 250,000 boxes.

Q. Did you ship any prior to Nov. 23d, 1890, during this season?

A. Yes, sir.

Q. Up to that date what did you pay per box for shipping? Just state the standard weight. Did you pay the rate that has been testified to here as being previously in force?

A. Up to the 23d of November we paid the rate to New York, Philadelphia and Baltimore via steamer of 30 cents per box. That is rail and steamer via Savannah or Clyde line from Jacksonville, and to Boston, a rate of 35 cents a box.

Q. What was the rate paid up to Nov. 23d via Atlantic Coast Despatch via Portsmouth?

A. I do not know. I did not ship anything that way.

Q. Did you ship anything all-rail?

A. Yes, sir.

Q. What was the rate paid all-rail?

A. The rate from Baltimore to Jacksonville was 40 cents, Philadelphia 41, to New York 43, to Boston, I think, 48 or 49.

Q. At any rate you paid the low rates which were in force up to *the* that time?

A. Yes, sir.

Q. Have you shipped any oranges since Nov. 23d?

A. Yes, sir.

Q. About how many, if you have any data you can tell from?

A. I have the figures down here. Up to the 29th of this month I have shipped 193,969 boxes.

Q. Since Nov. 23d?

A. That is to Eastern points.

338 Q. Have you paid an increased rate on those shipments?

A. Yes, sir.

Q. What increase?

Mr. LOGAN: I do not understand that there is any question as to what the rate was at one time and what it has been since. I only speak of this to save time.

The CHAIRMAN: You paid the regular rate?
A. Yes, sir.

Mr. COOPER:

Q. I do not know of any other such evidence at present. I have some figures here that were given to the railroad commission, I believe they were furnished by the fruit exchange.

A. I call them to your attention if you are able to verify them. I find there a statement of the orange crop for the 4 years preceding the present season in which it is stated that for the season of 1886–'7 it was 1,260,000 boxes; for 1887–'8, 1,500,000 boxes; for the season — 1888–'9, 1,950,000 boxes; for the season of 1889–'90, 2,150,000 boxes. Did you furnish those figures to the commission?
A. Yes, sir.
Q. Is that a correct statement of the orange crop?
A. Yes, sir; it is as correct a statement as we could get from the total number of shipments made by the different lines.
Q. The fact is that the volume of the crop is very rapidly increasing, is it not? Increasing the ratios here attested?

339 A. Yes, sir. The increase of last season over the season before is not so rapid and this season's crop will be a slight increase over that. What has gone out now, I think, about as much as was shipped last year has been shipped already. There has been a gradual increase since I have been keeping the figures.

Q. You say, then, that the crop of this year will be somewhat larger than last season?
A. Yes, sir, I think it will.
Q. Taken as a whole throughout the season, has there been an increase in the average price for which oranges have been sold in the northeastern markets over last season, for instance?
A. I have not any data made up on our business yet but from the returns I have been receiving I do not think it will amount to as much or any more at any rate.

Mr. ERWIN:

Q. The fruit is not so good, is it?
A. The fruit is not as good this year taken as a whole. There are individual cases where it is as good. I do not think the general average will be any greater or as great as last season.

Mr. COOPER:

Q. Taking last season, for instance, you say you have not your figures made up for this season—about what did a box of oranges sell for last season, those that passed through your exchange, I mean the net selling price, not the cost of transportation, the selling price less the cost of transportation?
A. I made up my average last season on handling 238,000 boxes at all points and it made a net average of $1.52 or $1.52½ a box.

340 Q. That you mean as the price of sale less the cost of transportation?

A. That is the money I sent them taking out commission and transportation charges.

Q. Does that include the cost of wrapping, packing or producing?

A. No, sir.

Mr. KNAPP: What is the average weight of a box?

A. 80 pounds.

Q. What is the average number of oranges in a box?

A. The average about 150; they run from 96 to 250.

Mr. COOPER:

Q. I understand that a Florida box is 80 pounds?

A. Yes, sir; it is estimated so.

Mr. ERWIN: About 150 in a box?

A. Estimated at that.

Mr. COOPER:

Q. I have asked as to oranges for the sake of brevity in all these matters. There is no material difference between oranges and lemons is there?

A. Yes, sir.

Q. The same rate on shipments as to freight?

A. Well, the price varies in the manner in which they
341 come in. We have lemons going early that bring a high price, and late in December and January there is $1 a box difference in the price.

Q. Judging from your experience in the orange crops, about what proportion of the crop goes West and about what proportion goes East?

A. I think there is about ⅔ that go East.

Q. When you speak of East you mean northeast out of Florida?

A. When the term "East" is used we mean New York, Phila. and Baltimore. When "West" is used, we mean Cincinnati, Chicago and all such points.

Q. Is it not a fact that substantially the whole orange crop is shipped out of Florida over the transportation lines, substantially the bulk of it?

A. Yes, sir, the bulk of it goes by the lines that leave out of Gainesville, Callahan, Jacksonville and Fernandina. Some fruit is shipped out by the Gulf ports out of Tampa and New Orleans. I do not think that that amounts to a great deal though.

Q. Nearly the whole of the crop goes over the transportation lines leading northwest or northeast and about one-third goes northeast?

A. Yes, sir, that is my opinion. I think that it will average about ⅔.

Q. Do you know whether or not oranges shipped by rail to northeastern cities arrive there any quicker than any other freight shipped in that direction?

A. I do not know that to be.

Q. Is any special contract made by the transportation lines with

The CHAIRMAN: You paid the regular rate?
A. Yes, sir.

Mr. COOPER:

Q. I do not know of any other such evidence at present. I have some figures here that were given to the railroad commission, I believe they were furnished by the fruit exchange.

*A.* I call them to your attention if you are able to verify them. I find there a statement of the orange crop for the 4 years preceding the present season in which it is stated that for the season of 1886–'7 it was 1,260,000 boxes; for 1887–'8, 1,500,000 boxes; for the season — 1888–'9, 1,950,000 boxes; for the season of 1889–'90, 2,150,000 boxes. Did you furnish those figures to the commission?
A. Yes, sir.
Q. Is that a correct statement of the orange crop?
A. Yes, sir; it is as correct a statement as we could get from the total number of shipments made by the different lines.
Q. The fact is that the volume of the crop is very rapidly increasing, is it not? Increasing the ratios here attested?

A. Yes, sir. The increase of last season over the season
339 before is not so rapid and this season's crop will be a slight increase over that. What has gone out now, I think, about as much as was shipped last year has been shipped already. There has been a gradual increase since I have been keeping the figures.
Q. You say, then, that the crop of this year will be somewhat larger than last season?
A. Yes, sir, I think it will.
Q. Taken as a whole throughout the season, has there been an increase in the average price for which oranges have been sold in the northeastern markets over last season, for instance?
A. I have not any data made up on our business yet but from the returns I have been receiving I do not think it will amount to as much or any more at any rate.

Mr. ERWIN:

Q. The fruit is not so good, is it?
A. The fruit is not as good this year taken as a whole. There are individual cases where it is as good. I do not think the general average will be any greater or as great as last season.

Mr. COOPER:

Q. Taking last season, for instance, you say you have not your figures made up for this season—about what did a box of oranges sell for last season, those that passed through your exchange, I mean the net selling price, not the cost of transportation, the selling price less the cost of transportation?
A. I made up my average last season on handling 238,000 boxes at all points and it made a net average of $1.52 or $1.52½ a box.

340 Q. That you mean as the price of sale less the cost of transportation?

A. That is the money I sent them taking out commission and transportation charges.

Q. Does that include the cost of wrapping, packing or producing?

A. No, sir.

Mr. KNAPP: What is the average weight of a box?

A. 80 pounds.

Q. What is the average number of oranges in a box?

A. The average about 150; they run from 96 to 250.

Mr. COOPER:

Q. I understand that a Florida box is 80 pounds?

A. Yes, sir; it is estimated so.

Mr. ERWIN: About 150 in a box?

A. Estimated at that.

Mr. COOPER:

Q. I have asked as to oranges for the sake of brevity in all these matters. There is no material difference between oranges and lemons is there?

A. Yes, sir.

Q. The same rate on shipments as to freight?

341 A. Well, the price varies in the manner in which they come in. We have lemons going early that bring a high price, and late in December and January there is $1 a box difference in the price.

Q. Judging from your experience in the orange crops, about what proportion of the crop goes West and about what proportion goes East?

A. I think there is about ⅔ that go East.

Q. When you speak of East you mean northeast out of Florida?

A. When the term "East" is used we mean New York, Phila. and Baltimore. When "West" is used, we mean Cincinnati, Chicago and all such points.

Q. Is it not a fact that substantially the whole orange crop is shipped out of Florida over the transportation lines, substantially the bulk of it?

A. Yes, sir, the bulk of it goes by the lines that leave out of Gainesville, Callahan, Jacksonville and Fernandina. Some fruit is shipped out by the Gulf ports out of Tampa and New Orleans. I do not think that that amounts to a great deal though.

Q. Nearly the whole of the crop goes over the transportation lines leading northwest or northeast and about one-third goes northeast?

A. Yes, sir, that is my opinion. I think that it will average about ⅔.

Q. Do you know whether or not oranges shipped by rail to northeastern cities arrive there any quicker than any other freight shipped in that direction?

A. I do not know that to be.

Q. Is any special contract made by the transportation lines with

the shippers by which they agree to deliver in northeastern cities in any speedier time than their other schedules?

A. No, sir.

Q. Do they publish any schedules that make any arrangement to deliver them on a certain time?

342 A. I think one season they published a schedule giving the number of days by the Atlantic Coast Despatch line. I think one season they had out an advertisement as to the number of days and hours they would take to go to these different points.

Q. Not this season?

A. No.

Q. About how long does it take to receive oranges in New York shipped by the Clyde line, say from Jacksonville?

A. Four or five days.

Q. Suppose it went by the Mallory line from Fernandina?

A. I have never made but one shipment by that line and do not know how long it took. Did not notice it because it was a small amount, but it was about the same time.

Q. How is — by Savannah and Ocean Steamship Co.?

A. That is according to the time scheduled of the sailing hours from Savannah. If we make close connections it may get there in about four days.

Q. Suppose you do not make close connections?

A. If we miss the steamer it takes us that much longer. They have four steamers a week. If you happen to miss the Friday ship they will take it Sunday, which makes one day longer.

Q. How is it by the all-rail line?

A. My experience has been that I do not make any better time all rail than by steamer.

Q. How about Portsmouth?

A. I have never shipped that way. That is, I have not since they put on the Atlantic Coast Despatch line; I have shipped some by rail, but not a great deal. I do not find any better despatch in time than by steamer. I shipped that way sometimes because you

343 can ship that way every day. It costs more money is my reason for not shipping that way.

Q. The trains which take oranges north of Jacksonville, will they take any kind of freight that is at hand?

A. Yes, sir; I think they will. That is, I do not say any other kind. They will take other freight though. They will take live stock or cigars. I have seen cigars go in the same car with oranges.

Q. Are the cars which are used in shipping oranges from Jacksonville to Savannah used in return for other freight? Do they bring other freight from Savannah to Jacksonville?

A. Yes, sir; in the same car.

Q. In the same car?

A. Very often in the same car.

Q. Are there any facilities offered for the shipment of oranges by the all-rail lines this year that were not offered last season?

A. No, sir; not that I know of.

Q. Is there any superior service from Jacksonville to Savannah over last season?

A. I think not.

Q. Are there any better facilities offered by either the Clyde or Mallory lines?

A. They have more frequent sailings of ships by the Clyde line. I have had very little experience with the Clyde line this year. I have not shipped more than one shipment, one since the 23d November.

Q. Do they carry a considerable quantity of oranges?

A. My reports show that they carry a good many.

Q. You individually ship by other lines?

A. Yes, sir.

Q. Does the line by Portsmouth and steamer get considerable shipments of oranges?

A. I could not say as to that. I do not know.

344 Q. Cars in which oranges are shipped—ventilated cars as they are called. What does the ventilation consist of?

A. Grated doors on the sides and windows on the ends.

The CHAIRMAN: It is hardly necessary to go into that.

Q. Very well, I will not pursue it further. I will ask you as to the value of oranges. I would like to have you compare it with some other things. Are oranges worth more, weight for weight, than flour, for instance?

A. I do not think they are. I think flour is worth four or five dollars a barrel. We very seldom have any oranges that sell that high.

Cross-examination by Mr. ERWIN:

Q. You testified that oranges averaged last season $1.52 a box. What was the greatest average?

A. The greatest, I think, was $2.27. I am not positive about that. I have the figures at the office.

Q. Out of that had to come freight and your commission?

A. Yes, sir, 8 per cent. on the gross sale is the commission.

Q. What is it this year?

A. 8 per cent.

Q. 8 per cent. in the past?

A. It had been 10 per cent. up to the season of 1887–'8, when it was reduced to 8 per cent.

Q. Were there any other charges that it had to bear?

A. At some places there is a drayage charge and a wharf-

345 age charge. At Boston there is a wharfage charge, at Baltimore a wharfage charge. At New York and Philadelphia they have none.

Q. That is the way the net is made up by taking from the gross the transportation charge and commission and the wharfage and drayage charges or what might be incident to the business?

A. Yes, sir.

Q. Now the exchange then decided to get a vessel?

A. No, sir; not right then.

Q. Well, shortly after that?
A. Yes, sir.
Q. And did charter a vessel?
A. Yes, sir.
Q. And guaranteed that vessel how many boxes of oranges?
A. We did not guarantee the vessel any number of boxes of oranges, but so much money if she would come here.
Q. How much money?
A. I think it was $2,300.
Q. The vessel came and you furnished how many boxes?
A. We furnished her 4,700 boxes.
Q. At what rate?
A. At 30 cents a box.
Q. And that only made $1,410 did it?
A. Yes, sir.
Q. So that the exchange had to pay the difference? About $900 it cost the exchange.
A. No, it did not cost us quite that much money. It would have cost us that, but I got a little off.
Q. But really the experiment on the basis of your figures would have resulted in a loss? But they did not hold you up to it?
A. No, sir.
346 Q. You didn't bring any more vessels?
A. No, sir.
Q. You have not had any since?
A. No, sir.
Q. And where were the balance of your oranges shipped from?
A. The balance went via the Ocean Steamship Co. and the Sav., Fla. & Western and the Atlantic Coast Despatch. Some few by the Mallory line.
Q. The balance either paid 40 cents or 53 cents?
A. Some paid 53 cents, but all paid over 40 and upwards.
Q. And the exchange concluded that it was cheaper to pay 40 cents a box than run steamers?
A. No, it did not. We concluded we were not in a position to run a steamship line and therefore we have to pay the rate required by the transportation lines.
Q. As a matter of fact the steamer rates have been high all the winter?
A. Yes, sir; they have been high. We think they have been high all the time.
Q. When a man had a steamer, it was worth more to him than to carry oranges at 30 cents a box?
A. I could have gotten steamers to come here and carry fruit. I had no direct offer. If I had received a cargo then I could have got another ship. The shippers claim they did not have sufficient notice of it to give us a full cargo. If I had received a full cargo I would have come out ahead.
Q. Why did you not try it again?
A. We were not in a position to do so. We had no money to lose.

Q. Could you not get guarantees from shippers to give a full cargo?

A. I could have done so I suppose.

347 Q. Then why did you not get other vessels to come here at 30 cents a box without any risk to you?

A. I was not in a position to do so.

Q. If you could have gotten a vessel to come here and take the chances of getting a cargo at 30 cents a box, that would not have cost the exchange a cent.

A. I do not know. I did not say positively that I had any direct offer of that but I have no doubt that I could have gotten a vessel.

Q. The established lines threw no obstacle in your way?

A. Yes, sir, they did. In getting a cargo they did. They told shippers in the State that I had started a vessel which was an old ship that would not carry the fruit. They also said the ship would have more fruit than it could carry.

Q. Whom did you say said that?

A. Shippers who came into my office and who gave reasons why they did not give me a cargo.

Q. Did not the Fla. fruit exchange have enough to fill the ship at that time?

A. I did not at that time have enough.

Q. Why did you not hold it over for several days?

A. I did not care to hold it over.

Q. So it is very necessary to have more than one ship to do the business?

A. Yes, sir.

Q. The total Eastern movement of oranges is how many boxes?

A. Well, I presume it is about ⅔ of the crop of Florida that goes East.

Q. That meant for last year about 1,400,000 boxes?

A. Yes, sir.

Q. At 30 cents a box that would be how much?

348 A. That would be four hundred and odd thousand dollars.

Q. And that is for all the transportation lines that moved oranges out of Florida to Eastern markets?

A. I have not the figures, but I presume that is right. Whatever that would foot up at 30 cents a box.

Q. The present water lines with the number of ships they now have, could not move all the oranges, could they?

A. Yes, sir; I presume they could move all.

Q. With the number of ships they have now? I mean carrying other freights, of course?

A. I guess they could move it.

Q. I mean with the ships they have now?

A. Yes, sir; I think they could, because there is one steamer line that gets very little orange business.

Q. What is that?

A. The Mallory line carries very little.

Q. Have you any personal knowledge now that there was an attempt made by the transportation lines to hinder you from getting a cargo?

A. I only suspect it from what I have been told by shippers.

Q. I am speaking of personal knowledge?

A. No.

Q. How many boxes of oranges could your ship have carried?

A. Nearly 9,000 boxes.

Q. And she got how many?

A. 4,700.

Q. A little more than half?

A. Yes, sir.

Q. Where did she unload that cargo?

A. It was unloaded where all the foreign fruit is unloaded.

349 Q. Don't you know that this season the Florida shippers have had one advantage that they never had before for their fruit going via the Ocean Steamship Co., that is the warm-storage warehouse in New York city.

A. Yes, sir.

Q. That is a very great advantage?

A. Yes, sir. An advantage that the Ocean Steamship Co. advertised should not cost the shippers a cent. They advertised that they had done it for the advantage of the Ocean Steamship Co.

Q. The Ocean Steamship Co.?

A. Yes, sir.

Q. And that warm-storage warehouse is used generally by the orange-receivers in lieu of having warehouses of their own?

A. Not exactly that. It is used in the event of cold weather to protect the fruit, and my understanding is that it was a very good thing for the line getting it in. It would be apt to control business having that facility.

Q. It was a very great advantage?

A. I took advantage of it myself.

Q. And it worked very well?

A. Yes, sir.

Q. Now the handling of oranges, taking it all around is very satisfactory, is it not?

A. My fruit is handled very satisfactory.

Q. Very much more so than it used to be?

A. No, I have not had any fault to find. There are improvements that could be made. I do not think we have as good ventilation as we should have.

Q. Cars have ventilation?

A. We sometimes have to use cars that are not ventilated. I think they are ventilated enough, most of them. Steamers might be improved some. That is my opinion.

350 Q. Is it not a fact that a great portion of the crops, the orange crops, in Florida is sold on the trees?

A. For the past one or two seasons considerable fruit has been sold on the tree and at the station.

Q. In that case the purchaser packs the oranges and sometimes

the party that raises them packs them? What prices do they get on the trees without the expense of packing?

A. I think this year it went from $1.25 to $2.75 on the trees.

Q. That is for 150 oranges?

A. Yes, sir; one party told me he had bought fruit as low as $1.

Q. That is the man who owned the fruit got ⅔ of a cent on an orange?

A. I do not know. Some got $1.25 or $1.50; some as high as $1.75.

Q. Do you know what oranges average per acre, the yield?

A. No, sir.

Q. You have never seen any figures? The yield of some of the groves is very large, of course?

A. Yes, sir, I did see some figures. I know very little about the raising of oranges. I would like to correct my statement about what they sell at. I am only stating what I am told by shippers or purchasers who have bought. I do not know of my own knowledge.

Q. The commission, of course, is charged by your exchange and other sellers on the gross and that is the usual price, 8 per cent.?

A. Well, some charge 10 and some 8.

Q. 8 is about the lowest amount charged?

A. I do not know what other men charge. We charge 8 per cent.

351 The CHAIRMAN: Is the season for lemons identical with the season for oranges?

A. Not exactly. Our lemons come in September and October and November, some all through the orange season but not a great many, the bulk comes in October.

Q. It begins a little earlier?

A. Yes, sir; it does not amount to a great deal.

Commissioner KNAPP: And the shipment of the orange crop is governed by the same rate as oranges?

A. Yes, sir.

Q. And the lemon crop is how much in volume in the year?

A. It does not amount to a great deal. In January, 1886, the lemon trees were damaged by a frost and are just coming into good bearing again.

The CHAIRMAN: Are the trees more tender than the orange trees?

A. I think they are.

Mr. COOPER: Is it not a fact that oranges shipped from Florida are generally loaded in the cars by shippers?

A. Well, no, not always. They are at stations on the lines loaded by shippers, but I think at all way stations the shippers load the cars.

Mr. IRWIN: You state that the shippers loaded these cars. Is it not a fact that they only load at flag stations?

A. At the large shipping points I have often seen them loaded by shippers; I have seen them loaded at Leesburg by shippers.

352 Q. I suppose the shippers wanted to load them?

A. I have seen it at Ocala.

Q. As far as you know the railroad is ready and willing to load at all regular stations?

A. I do not know that. All I know is I have seen them loading at these large stations.

Q. I have no further questions.

Mr. GEORGE R. FAIRBANKS, a witness on behalf of the complainant, having been duly sworn testified as follows:

Direct examination by Mr. COOPER:

Q. Mr. Fairbanks, you are connected with the Florida fruit exchange?

A. Yes, I am president of that exchange.

Q. Also an orange-grower?

A. Yes, sir.

Q. Who composes the Fla. fruit exchange?

A. It is composed almost exclusively of orange-growers in the State.

Q. You filed on behalf of the Fla. fruit exchange a petition with the State commission. They have filed a petition with this commission alleging some other things, that the great and sudden increase in rates have been injurious to the orange industry in Florida. You say you are both shipper and president of the exchange. As a matter of course, the injury that is produced by the payment of 10 cents or more a box is apparent. Is it not also a fact that the sudden and great increase is a damage to the industry in unsettling the value of it, in unsettling the rates of transportation, in unsettling the basis upon which oranges can be sold?

A. I should think so.

353 Q. I will ask you generally, what is your idea as to the damage that resulted to the industry in Florida?

A. There has been in the last two seasons a large number of persons coming into the State and buying fruit. They, of course, had to base the amount they were willing to pay for the fruit by what it would cost them to get it in the market, and 10 cents a box or an increase of 33⅓ per cent. would make a very material difference as to the amount they could afford to pay for it. A great many contracts were made before this increase was talked of and I have more complaints from parties who have bought then, who said they had lost by the increase because they had paid expecting to ship at a certain rate and had been obliged to pay a certain increase of rate over that in order to get the fruit to market. I think it also unsettled the orange-growing business in that the rate which had been in existence for some years was suddenly changed, and parties have said, why, if they raised it to 10 cents this year they may raise it 20 cents next year. They raise it as much as they think it will bear and that unsettled, of course, the value in that direction.

Q. What is the tendency of larger planting of orange groves in Florida?

A. I think it is to reduce the price, because the increase of the fruit is now becoming apparent and there is a general expectation that the increase of fruit will be larger than the increase of price in the markets of the country, and that hereafter we will have to take a very much greater reduction in price, and moreover, I would say that this is a direct injury in all cases, whether the grower ships directly himself or through the fruit exchange. In either case he pays the 10 cents and the fruit which is seeking the market, the first lien on that fruit is very large, and if, as in many cases happens, the fruit arrives in bad order, it sells for hardly enough
354 to pay freight charges and leaves nothing whatever for the grower. I have had that happen with my own shipments.

Q. That is all, I think.

Cross-examination by Mr. ERWIN:

Q. What were you offered for oranges in your groves this last fall?

A. I do not know that I had any distinct offer for oranges in my grove.

Q. Did you not have an offer for the oranges as they stood?

A. No, sir.

Mr. ERWIN: Have you not had this winter?

A. No, sir.

Q. You have not attempted to sell them that way?

A. No, sir.

Q. Now, with all these oranges in the groves before the rates were changed why did they not ship by this chartered vessel?

A. It would carry only 9,000 boxes, and there were about four or five hundred thousand boxes. I shipped 500 boxes in that ship.

Q. In good or bad weather?

A. Bad weather. In order to help that vessel I gathered my fruit in wet weather, and it came forward here when it ought not to have been shipped. I was a loser, individually, considerably in that way. But the rest of the fruit arrived in good weather.

Q. Now the usual commission charged before this Florida fruit exchange came into existence was what?

A. 10 per cent. was the usual commission.

355 Q. 10 per cent. Those boxes averaged about $2.50 gross?

A. No, sir; I should think the average would not be over $2 gross.

Q. That would be 20 cents a box for commission. Why was so large a charge made by the commission?

A. The goods had to be looked after here, billed and shipped. The agents at the other end of the line who sell the fruit have to be compensated. The agents in New York, Boston, Philadelphia and Baltimore have to be paid. Catalogues have to be printed. Fruit had to be inspected and marked and returns made to me.

Q. The exchange handles other fruit besides oranges?

A. Hardly anything else.

Q. And the men who do the selling north, they handle other fruit?

A. They handle Florida, California and foreign fruits.

Q. Those are the services for which that commission is charged?

A. Yes, sir.

Q. Now do you know, Mr. Fairbanks, that if your oranges get to New York rotten so that they sell for nothing, freight charges are remitted?

A. Freight charges are remitted?

Q. Suppose the freight arrives there in such bad weather that the agent swears he won't take it?

A. I do not know anything about that.

Q. As a matter of fact there is a great deal of speculation in orange-dealing. Men go in and buy immense quantities of trees, there are big fluctuations in the price?

A. I only know what you or anybody else here knows about that. I have known that persons did buy very largely on the trees.

356 Q. And there is a good deal of speculation?

A. I do not know.

Com'r KNAPP: The crop fluctuates?

A. The crop fluctuates and the prices fluctuate.

Mr. ERWIN: Do you know the commission on a barrel of flour for selling?

A. I do not. I never sold flour in my life.

Mr. M. S. MOREMEN, a witness on behalf of the complainant, having been duly sworn, testified as follows:

Direct examination by Mr. COOPER:

Q. Mr. Moremen are you an orange-grower?

A. I am.

Q. How long have you been in the business?

A. A little more than 20 years.

Q. Considering the orange business as a whole I want so examine you somewhat as to the character of the production. In the first place, does it take a good while to make an orange grove?

A. Yes, sir; I should think it did from my experience.

Q. What is your experience in reference to that?

A. 11 years from the planting of the grove before I sold a single orange.

Q. Well, Mr. Moreman, if you have any acquaintance with the orange-growing districts throughout the State, is it not a fact that, taking the industry over the whole State—exceptionally favorably situated groves on rich land and groves on pine lands, groves as they come—considering all the groves as they run, do you

357 consider the production of oranges as an exceptionally remunerative business?

A. From experience personally and from personal observation on hammock and pine lands, I think that it is a losing business. In the 20 years I have been in the business I have invested $20,887, and I have sold from that grove $8,814 worth, making the difference something like $12,000. That does not take into consideration

the purchase of the land, interest or personal service. That is simply a pure investment in the orange business. I believe that experience is about the experience of my neighbors in my section of the country, and so far it is the general experience over the State. Men have not found it a remunerative business. Of course there are exceptions. For instance, the years succeeding 1886 my sales amounted to $166, my fertilizing bill was $648, my labor bill something over $700.

Q. Is it not a fact that the crop to the producer is not only an expensive crop but a precarious crop?

A. Very much so, sir. Two years ago I had a grove which was capable of bearing 5,000 boxes. Two years ago it was attacked by a brought and red spider to such an extent that I only harvested 7 boxes. Whether we get a harvest or not, to keep the grove up we have to pay fertilizer bills and labor bills.

Q. Based upon your experience and observation as a grower then, Mr. Moremen, from the standpoint of a producer, do you consider that the recent increase in orange rates has been excessive or unreasonable?

A. Well, from my side of the question, I think so. I think it is an excessive business putting on an industry that has not yet been able to stand alone an additional 10 cents a box.

358 Q. Do you consider the orange industry in Florida one which still needs encouragement from transportation lines?

A. I think it needs encouragement from some quarter. I think it is due to the transportation lines that live upon it that they should give reasonable rates.

Cross-examination by Mr. ERWIN:

Q. It would also help the cause a little if the commission-houses would come down a little in their commissions?

A. It would help us that much.

Q. Also the fertilizer men?

A. Yes, sir.

Q. And the labor bills come down, that would help also?

A. Yes, sir.

Q. Has fertilizer been going up recently?

A. My experience is that fertilizer has gone up a little.

Q. What is your place worth now?

A. That is a question that I am not prepared to answer.

Q. What will you take for it?

A. I do not know that I will answer that because I do not know that I want to sell.

Mr. L. J. P. BISHOP, a witness on behalf of the complainant, having been duly sworn, testified as follows:

Direct examination by Mr. COOPER:

Q. Do you know anything about the reception of oranges in New York city?

359 A. I do, sir.

Q. What means have you of knowing that? What business are you in there?

A. For 8 or 9 years I have been working in New York for Fish, Howe & Co., the growers of central Florida.

Q. Large growers and shippers of Florida?

A. Yes, sir.

Q. How is it with regard to the receipt of oranges from Florida, all rail, as to the schedule time?

A. Well, I do not know anything about the schedule time. I can only tell you about the length of time it takes from the day the bill of lading is issued in Florida and the time I receive the fruit in New York. The average is about 6 days. I think the schedule makes it 4. It takes anyway over 5.

Q. Do you know anything about the terminal facilities for the receipt and delivery of oranges there by the Penn. railroad?

A. Yes, sir.

Q. State what you know about that?

A. The terminal facilities have been the same as the terminal facilities for their other freight business. All the freight business is delivered on the Star, Union and Empire docks. The Star Union particularly until this season, and this season they gave us an old dock to put our freight on. But previous to that, since we began to receive fruit all rail, oranges have been mixed with all the other freight and received by the Star Union line on pier 27. Sometimes in one place and sometimes in another. But this season they gave us our fruit on a separate dock where we had plenty of room for handling the fruit, receiving it, and we could find no fault at all with it.

Q. The dock has been lately given to you?

360 A. Yes, sir; it is an old dock. The dock that Mr. Townsend has spoken of is just completed and opened on the 18th, but what I refer to is previous to the 18th of March, and previous to this season, speaking generally of the terminal facilities of the Penn. railroad at New York.

Q. You do not know about the new dock as to whether it is used for miscellaneous freight?

A. No.

Q. The average time of the receipt of fruit from Florida has been from one to two days more than the time it should have taken?

A. I do not know what the schedule time is. I have never seen a schedule. I have understood that they advertised to take oranges from Citra through to New York in four days. I think out of 25 car-loads I have received 2 car-loads in 4 days. The rest have been from 5 to 6 to 8 days in getting through from Citra.

Cross-examination by Mr. ERWIN:

Q. How far south is Citra?

A. I cannot say.

Q. You do not know?

A. I do not know, sir.
Q. Where is it with reference to Sanford?
A. It is west of Sanford; a little further southwest.
Q. Do you know how far it is from Citra to Sanford?
A. No, sir.
Q. Or to Callahan; you go by Callahan?
A. Yes, sir.

Mr. ELLIOTT:

361 Q. Do you know that the time you speak of, 5 or 6 days, was from Citra?
A. Yes, sir.
Q. How about the time from Jacksonville?
A. I do not know. We do not receive any fruit from Jacksonville at all. The only thing I know about it is that Hoyt & Co. shipped to me.
Q. Through Gainesville?
A. Sometimes by the Fla. Southern and sometimes via Callahan.
Q. Does it not change again at Gainesville?
A. I do not know that, sir.
Mr. LOGAN: I understood you to say that the pier service this season is satisfactory, but was objectionable before?
A. Yes, sir.
Q. That is all.

Mr. COOPER: I desire to direct the attention of your honor to the banana rate from Port Tampa, a copy of which at my request was brought down here or sent here by the secretary of the commission from Washington.
The CHAIRMAN: To be shown to the counsel on the other side.
Mr. COOPER: I will call Mr. Delano.

CHARLES DELANO, a witness on behalf of complainant, having been duly sworn, testified as follows:

362 Direct examination by Mr. COOPER:

Q. Are you an orange-grower?

Mr. DELANO:

A. Yes, sir.
Q. Are you in any position or relation connected with any body of producers of oranges or orange-growers in this State?
A. I am a member of the Farmers' Alliance.
Q. You have some charge of their traffic interest?
A. I am called the commissioner of transportation of the Farmers' Alliance.
Q. I wish you would state as briefly as possible if you consider this rate unreasonable, and, if so, what you base your opinion upon.
A. Yes, sir; I do so consider it. I think it is unreasonable. One reason for that is this: The orange rates are twice as high as

other rates; in other words you have to pay twice as much for oranges going out of Florida as you have to pay for the same weight coming into Florida. I pay for shipping oranges to Chicago 87 cents a hundred, and I can load that car coming back for about half that or less. That is one reason. Now, there is another. My crop of oranges are running very large. The saleable oranges are the small ones running from 175 to 250 a box. My oranges are averaging nearly 96. I have 4,000 boxes of oranges on 25 acres. My expenses to run that grove are $1,600, and on those 4,000 boxes of oranges that is 40 cents a box. That is, it costs me 40 cents a box to put my oranges on the cars. Well, now, that is 40 cents a box to put them on the cars, and it costs 40 cents a box for fertilizing and cultivation, which makes it an even thing. Now, the large portion of my crop will run about eighty. I have tried the fruit exchange, the vegetable auction, some of the commission-houses in New York, Boston, Philadelphia and everywhere
363 in the interior of New York. I ship to Syracuse, New York, and send oranges to the interior. In that way I get a little better price. But I do not believe that I will realize more than ten or twelve hundred dollars on the 25 acres. I do not think I have realized on two bearing groves of about 2,000 trees any profit the way the thing goes now, and I have shipped 3,000 boxes of oranges. I have perhaps realized ten or twelve hundred dollars over and above expenses. That is saying nothing of my own time, nothing of the interest on the money that is invested in the grove; not anything of that kind. And I think now the next year's crop promises to be three or four million boxes of oranges. If there is something of that kind and it is found out it is going to bring oranges down on the tree to 75 cents a box. Now, then, if oranges are worth 75 cents a box, how can you pay 60 and 70 cents a box for shipping? When I get 80 cents a box, delivered on board the cars, there is 40 cents for packing; that is the box, the paper, the packing, hauling to depot, which is only about half a mile, being favorably situated; some persons have to go three or four miles—and I say this is 80 cents. Now, I average about 80 cents a box and that just pays exactly the cost of raising the oranges and putting them on board the cars at the depot.

Q. Is it or is it not the general custom throughout the State of the purchaser to load the cars?

A. It is. The cars are left on the side track and the orange-growers put the oranges in. It is done throughout the State wherever I have seen it, while the parties who buy oranges from the commission-houses load their own cars.

Q. Are the cars that are used for shipping oranges generally used for shipping other freight of the railroad company?

364 A. Yes, sir, and to my knowledge. I will say this. There are cars, the California refrigerator cars, that I do not know whether they are so used or not, but I suppose they are.

Q. There are no refrigerator cars used in Florida, are there?

A. They call them refrigerator cars. I have used them. You pay for the ice. There is a place to put ice in one end of the car.

You can use them or not as you like. If you use ice you have got to pay for it. The California Refrigerator Company's cars they put in four or five tons of ice but you have to pay 15 cents a box extra. There is nothing extra in these other cars. You simply put the ice in one end of the car.

Q. How much does your grove represent in capital invested, without going into details?

A. My grove that I spoke of, the large trees; the groves that are remunerative cost me say $25,000, or in that neighborhood or very close to it. Last year I only got about 950 boxes of oranges, and they were very small, and averaged me from $1.25 to $1.50 a box.

Q. Is it not a fact that the orange crop is an uncertain investment?

A. I think to a certain extent it is. I have been sixteen years in the business. The only year I had a crop to pay was year before last. That is, to pay anything over and above fertilizers. Year before last I had 1,500 boxes of oranges, and I got $2,250 for them.

Mr. COOPER: That is all.

Cross-examination.

365 Mr. ERWIN:

Q. You say that this year your oranges were too large?

A. The oranges this year were very large, owing to the fertilizers.

Q. Too large to be profitable?

A. Yes, sir.

Q. Last year they were too small?

A. No, sir; I only had 950 boxes; they were good sized, but not enough of them.

Q. The output was small?

A. Yes, sir.

Q. Where is your place?

A. At Glenwood, about 100 miles south of here.

Q. Did you ever sell your oranges on the trees?

A. I never did.

Q. Did you ever have an offer?

A. Yes, sir.

Q. You had an offer this year?

A. Yes, sir; I had offers. The fruit company offered me $1.75 a box. At the rate of $1.75 a box, provided I would take 800 boxes for the grove, and I have already shipped 2,137 boxes off that grove. I would not sell it that way, of course; but they wanted to buy it at $1.75 a box if I would take 800 boxes for the grove. That offer was upon the pine-land grove. I had another offer for the hammock grove adjoining the pine-land grove, which is larger, and I think the offer was about the same thing. They wanted to take the oranges at about one-half the number of boxes that were really on the grove.

Q. You have two groves, you say?

A. Yes, sir; nearly adjoining each other. There is just a little space of hay land between them.

366 Q. Your figures had reference to both groves?
A. Yes, sir; two thousand large bearing trees.
Q. How many acres?
A. 25 acres in the bearing groves.
Q. Do you mean to say that your experience is the experience of the average orange-grower of Florida?
A. I have been here 16 years and I do not think any of them have ever had much better luck than I have had. I have never let my grove suffer for attention or care.
Q. How long have you had these groves?
A. I came here in the fall of 1875 and set out those groves then, and the next year I finished the whole thing.
Q. What did those groves cost you?
A. About $25,000; about $1,000 an acre.
Q. What do you value your groves at?
A. I should think with the improvements and everything I have, I would be willing to sell the two groves for $50,000.
Q. You can get that?
A. I say I will sell it for that.
Q. Don't you believe you can get that?
A. Let me tell you about it. A gentleman came down from Philadelphia a few days ago and went into this hammock grove and said he had been nearly all over the State. He said it was the finest grove he had ever seen in his life, and figured up the bearing capacity of it. Now, he said, the bearing capacity of that grove is about so many thousand boxes, about 10 boxes to each tree; that is, if they bore full it would be about 7,000 boxes of oranges, and he figured it out so that it would pay a big interest on $35,000 on the hammock grove. There are about 1,700 trees in that grove. Then he believed it would bear 20 boxes of oranges. He
367 estimated the hammock grove at $35,000. But still he did not say anything about the $50,000.
Q. Have you had any offer for your place?
A. No, sir.
Q. Have you ever tried to sell it?
A. Yes, sir.
Q. What was the figure you asked?
A. Fifty thousand dollars.
Q. How long ago?
A. During the last two or three years.
Q. Is it for sale now?
A. Yes, sir.
Q. At that figure?
A. Yes, sir.
Q. And not for less?
A. Well, I do not know, I do not care to say. I do not make a practice of doing business that way. If you come up there to buy that grove I think we can come to terms.
Q. You are rather far from Jacksonville?
A. One hundred and one miles by the river.
Q. On what rail line?

A. The J., T. & K. W.

Q. How far from Sanford?

A. About 20 miles. It is 125 miles from here to Sanford, and my place is about 24 miles from Sanford.

Q. Near the river?

A. No, sir, not so very near. The connection with the river through Lake Woodruff, is about two miles and a half from where we are.

Q. The quotations they give oranges in the papers, are those at all reliable?

A. Well, I have never been able to make much out of them.

Q. I see from the papers that oranges are announced as being firm; fine oranges selling from four to five dollars; and Florida brights from three to three fifty-five; russets from $2.50 to $2.75.

368

A. I have never been able to get any such prices as that.

Q. Who has done your selling for you?

A. I do not ship to any one particular firm. I ship oranges from the fruit exchange here. Also to the different commission-houses in New York and Philadelphia.

Q. You remember that from Mr. Ives' testimony yesterday he said that he averaged, his exchange average, for fruit $1.52 a box.

A. That was last year. That was an average on the fruit that went through his exchange.

Q. And you think this year the price is not so good?

A. They claim that there is as good price, but I have not been able to find it so. The oranges are all hurt. I have not seen in the State of Florida a tree anywhere, certainly in my neighborhood, which was not hurt by the frost. The frost of last March. All about my section the frost killed all the blooms. February is the natural month for blooming. Oranges that were on the trees this year were blooms that came out in the latter part of March.

Q. Notwithstanding this, the crop is bigger than it was last year?

A. Yes, sir.

Q. Was not that a total surprise to all the orangemen?

A. Yes, sir.

Q. Is it not a fact that the crop this year will go over, considerably over 2,000,000 boxes, while along in September and October and November the orangemen estimated that the crop would not be a million boxes?

369

A. I do not know who made that estimate. I did not. I never heard of that.

Q. You were away off in your figures?

A. I thought probably there would be three or four hundred thousand boxes less than the year before, because I heard that the trees were badly cut down by frost.

Q. And in spite of that fact there are a great many boxes more?

A. I only know from hearsay from parties who generally prepare the statistics. I do not make out any statistics myself. I get them from Mr. Ives and from the agricultural department at Tallahassee. I only get my information from those people.

Q. The crop went ahead of last year?

A. I would not be surprised if it would. My information from these parties seem to show it.

Q. Have you sold all your oranges yet?

A. I have probably now anywhere from 500 to a thousand boxes on the trees to ship. I have shipped a great many. I have shipped over 3,000 boxes. Somewhere about 3,400 boxes.

Q. You will run then about 4,000 boxes?

A. Yes, sir.

Q. You say your oranges will not bring the average price?

A. No; they will not. They are too large.

Q. What will they bring?

A. If I can get $1 a box I will be satisfied.

Q. Including what you have sold?

A. I mean on all my oranges.

Q. So as to give you $4,000 on a $25,000 investment?

A. That does not include fertilizer. The lowest estimate of that is $1,600.

Q. The balance would be your profit?

370 A. Except the boxes, the wear and tear, the taxes on the property. But I will be satisfied with that this year.

Q. Will you get it?

A. I am afraid I won't.

Q. How much have you got so far?

A. I have not all my returns in for all I have sold, but the large proportion will average about 80 cents. That is from the commissionmen. Eighty cents a box. That does not include the boxes and all that. It does not include the fertilizer. It means eighty cents from the commissionmen. That makes me even. I think it will not go over ten or twelve hundred dollars as near as I can get at it, including my returns on the six or eight hundred boxes in the grove now.

Q. Who is selling your crop?

A. The fruit exchange is selling some of it. And Slavin & Company; Roscoe of Syracuse, New York; they distribute it through the little towns, and there are three houses in Philadelphia and one house in Chicago.

Q. What commission is paid?

A. Some of the commissions are 8 and some 10. The fruit exchange is 8, and some others are 8, but most of the commissions are 10 per cent.

Q. Do you know whether they pay warm storage in Boston?

A. Cold storage.

Q. No warm storage in winter?

A. I presume they have. Warm storage and cold storage are the same. The warm storage prevents freezing.

Q. Do they charge you for storage in Boston?

A. Not that I know of. I do not think that my commissionmen have ever charged me anything for the storage. I do not remember anything of that kind.

Q. I understood you — say that the oranges that you
371 shipped west, you could bring back in the same cars return loads of freight; that did not apply to Eastern shipments, did it?

A. You can get a barrel of flour that weighs nearly three times as much as orange boxes for 25 cents. I say that cars that go to Chicago you can bring back the return loads much cheaper.

Q. I am speaking about cars going to New York or in the Eastern markets?

A. I only take it for granted that the competition between the steamer rates and the rail rates equalizes things, and as long as it is shipped with only 10 cents difference there will be just that difference between the rail and water rates. I do not believe there is any greater difference on anything. If I can get a barrel of flour for 25 cents by water it will be 35 by rail. I have not shipped any.

Q. You have no actual knowledge on the subject?

A. No, not of my own knowledge.

Q. What was your business before you went into the orange business?

A. When I was a boy I was a civil engineer by profession for a long time and contracted on railroads.

Q. You have no professonal knowledge of transportation matters at all?

A. Simply what little experience I have had myself. I have never been employed in that department of a railroad.

Q. And you really have no knowledge at all about transportation matters between Eastern points and Florida on articles coming south?

A. Why certainly; I have shipped goods in car-loads from Chicago to New York.

Q. That is not shipment from Eastern cities?

372 A. I have shipped car-loads to New York and then down.

Q. What did it cost you?

A. I do not know exactly, but you could not do anything with the railroad men. The Georgia Central railroad charged you four times as much as anything was worth fifteen years ago.

Q. I am speaking about Eastern rates.

A. Those are Eastern rates. Fifteen years ago I could ship a carload of pork from Chicago to New York and then down for 66 per cent. of what I could ship it from Chicago over the Georgia Central railroad.

Q. That was fifteen years ago?

A. And twelve years ago.

Q. You know nothing about it recently?

A. I am shipping all the time. I buy fertilizer and all these things in New York and ship it down. I buy lots of things.

Q. How do they come?

A. Generally by one of the other lines of steamers or the Clyde line.

Q. You know nothing about the all-rail rate coming south?

A. Not particularly from New York, no, sir.

Q. I understood you to say that your crop this year would be about 4,000 boxes?

A. It may be a trifle over that.

Q. And it costs you about 80 cents a box?

A. It costs me about 80 cents this way: It is 40 cents to cultivate the grove; that would be $1,600. It costs me to pick them, wrap them, and all expenses to put them on the cars, 40 cents. That is 80 cents. Now if the commission merchants return me 80 cents I do not think there is anything in it.

373 Q. It costs you 80 cents and you get 80 cents for it. Now, Mr. Ives, who is, I believe, general manager of the fruit exchange, testified yesterday that the average return for the last year to the shipper from his orange crop was $1.52. He thought it would be about the same this year. Suppose that the average return to the grower this year should be as Mr. Ives thinks it will be, the same as last year, I wish you would state then what your profit would be on the 4,000 boxes of oranges?

A. Say the average was $1.52. I say it costs for fertilizer and for the hire of labor, packing the oranges in the boxes, according to my experience, 80 cents a box. Now, 80 from $1.52 would leave 72. Now you have to pay taxes which are very small, and then whatever you consider your own time worth, you have to take that out. That is profit. You do not consider your own time or taxes in that 72 cents.

Q. You had 4,000 boxes of oranges and they cost you 80 cents to put them on the cars—raise them and put them on the cars—and you received an average return of $1.52; that would leave 72 cents over and above expenses, or a profit of $2,880, out of which to pay taxes and yourself?

A. Yes, sir.

Q. That would yield you a profit of $2,880?

A. Something like that.

Q. On an acreage of about 25 acres?

A. That is about right. That is my practical experience.

Mr. ELLIOTT: I have no further questions.

Mr. COOPER:

374 Q. That is all. Wait a moment. I will ask a question, too. How far is it from where you load oranges to Sanford?

A. Twenty-four miles.

Q. Do you ship by way of Sanford?

A. Oh, no; Sanford is south of my place. Sanford is 125 miles from here and I am about 25 miles this side of Sanford. I am on the Jacksonville, Tampa and Key West road.

Q. What do you pay from your station on the Jacksonville, Tampa and Key West to the basing points going north?

A. It changes at Jacksonville and at Palatka to join the South Florida railroad.

Q. You ship your oranges by way of Jacksonville?
A. Not all of them.
Q. Some of them?
A. All oranges going to the Northeast.
Q. I am talking about those going to the Northeast. What do you pay from your railroad station to Jacksonville?
A. Ten cents a box.
Q. Who established that rate?
A. I suppose the railroad commission. My understanding is that it does. The railroads establish the rates and the railroad commission regulates them, and I presume they are established or approved by them. That is my information.

Mr. ERWIN:

Q. Your grove is getting more valuable every year as the trees get older?
A. Yes, sir; the grove ought to be worth twice as much in six or seven years.
375 Q. If it is worth $50,000 now it would be worth $100,000 then?
A. You can say that.
Q. That is selling talk, is it?
A. I am willing to let you have the raise if you will take the grove at $50,000.

Mr. COOPER: That is all.

CHARLES W. WHITE, a witness on behalf of the complainant, having been duly sworn, testified as follows:

Direct examination.

Mr. COOPER:

Q. Are you an orange-grower?
A. Yes, sir.
Q. A good deal of an orange-grower?
A. Considerably interested in it.
Q. You have a considerable interest in orange groves?
A. Yes, sir.
Q. About how extensive is it?
A. I think 1,300 acres. I would have to add the acreage of the different groves together, but I think there are from twelve to fourteen hundred acres.
Q. Do you also buy oranges largely for sale?
A. I have for several years past been buying quite largely. I dealt more largely than any other purchaser in this State up to this year. This year others have bought more.
Q. Mr. White, speaking both as a grower and as one of the largest purchasers of oranges in the State, I would like you
376 to state whether you consider this increase in rate unreasonable, and if so, why?
A. I think it is unreasonable, because as the product of the State

is increasing it seems to me that transportation facilities ought to be cheaper. If they could carry them at the old rate without actual loss two or three years, I think they ought to be lowered and still make a profit. I do not think the facilities for the transportation of oranges have been increased in expedition and in other facilities for the preservation of the fruit to keep it in good condition—I do not think these facilities have been increased, and I think the transportation from Florida is excessive, compared with the transportation from California for the same sort of products to Eastern cities, as can be evidenced by the tariff rates from Florida on fruit, and the rates from California to Eastern points. The product of Florida is nearly twice as large as the estimated product this year in California, and the product in California this year is larger than in any past season. We do not know just exactly how the fruit there will turn out; whether it will exceed or fall short of their estimate, as they have not got into the shipping season very far, while we are near the end of our shipping season; and the California fruit-growers are getting their fruit to Eastern markets at a portion of the rate that we get. In most instances about 60 per cent. under ours, or just a little less than half.

Q. Now, Mr. White, you say you are one of the largest buyers in the State, of oranges to be shipped. Did the increase in the rates injure that business, and if so, how?

A. As a purchaser of oranges I have, as a rule, shipped to commissionmen, excepting to receive whatever the fruit sold
377 for in the market as based upon the current prices in that market, but I have in a few instances made sales here at a stated advance.

Q. The price you charge is brokerage for buying and selling the fruit?

A. I say only in a few instances have I sold at home for brokerage pay. I have found myself, owing to the increase of the rate, after paying my expenses of telegraphing and traveling expenses, and other incidental expenses in connection with the transaction of a considerable volume of business without any profit to myself, because the increased rate is more than my profits made as a broker upon fruits. And although it does not bear strictly upon the case, I would like to state that about two years ago there was an increase in the local rates that more than consumed the profit that I was making in the buying and selling of fruit.

Q. Was this increase in transportation charges made in the midst of the shipping season, or after the shipping season was opened?

A. It was made some time in November. Prior to that time I had made a contract for the purchase of some fruit.

Q. On the basis of the old rate?

A. Yes, sir.

Q. Well, was that generally the case as far as you have any information?

A. As far as I had information it was. My information is not exact with reference to the business of any other party. It is only inferentially from conversations with them.

Q. Is it not necessarily the result of that sort of thing that commissionmen or purchasers will hesitate to buy and sell?

A. I have heard commissionmen say that they were not
378 going to buy here again, where there was a probability of an increase of rate on short time. One purchaser told me that he did not buy because he was advised by an official of the Atlantic Coast Line system that there would be an increase in the rate.

Mr. LOGAN: We ought to object to this repetition of the statement made by New York buyers under influences that we cannot estimate, and conditions which we cannot consider without opportunity afforded us. Certainly if this is competent the party who has the knowledge ought to speak.

Mr. COOPER: He said that the party told him.

Mr. ELLIOTT: That is just what we object to. We do not wish any hearsay evidence.

The CHAIRMAN: He is speaking of those things that would naturally follow from the sudden raise of the rates during the season.

Mr. COOPER:

Q. You say you 'r- both an orange-grower as well as an orange-buyer. What is your idea of the orange production in the State? Is it an exceedingly profitable business?

A. I do not think it is. I think that I and some other individuals in my locality and a few other localities in the State, some near us, are more successful than the average in the State, and I think that I have done as well as the majority of men, in the most successful parts, and very much better than the majority of men in the State.

And I have not found that the growing of oranges was near
379 so remunerative as is generally supposed to be in the literature on the subject, gotten up by irresponsible parties for the purpose of inducing immigration to the State. If directed by intelligence the application of the best and most economical method for producing your product, you do get good results from it. There is no question about that. There have been a great many failures in the State. Sometimes due to mismanagement, and sometimes to unfavorable conditions in the locality. There are some places in this State where the production of oranges has been carried on and parties have been getting dividends on their investment, without the application of any fertilizer; and at a great many other places groves have been planted where it is necessary to fertilize from the time the grove was planted and the yearly addition of the fertilizer has consumed the profit of the grove that ought to go on the interest account of the investment.

Q. Is it not a fact that the growing of oranges is becoming more expensive and more hazardous?

A. Yes, sir; that is so. A few years ago when I began there were many things that we did not have to do then that we do now. At least there were several things that we do now that incurs a consid-

erable expense that no one heard of then. For instance, the ravages of insects. Chemical compounds to resist the ravages of insects. The lands are being exhausted owing to the heavy production. And there are constantly increasing expenses in the application of fertilizers. And then there are various causes conspiring to make the annual cost per acre much greater than it was a few years ago. Then there are a good many people who have made groves in this State at such prices as could not be done now. This is due to the fact that there was a large growth of wild oranges found in various parts of the State and these were grafted to the improved oranges and the cost of making the grove was inexpensive. Now
380 these young trees have to be reared in nurseries and the trees are for sale by those parties who make their living doing that business.

Q. Where have you shipped—I speak only generally—by what routes have you shipped this season?

A. I have shipped to Western points by way of the Florida Central and Peninsular and the Louisville and Nashville system from the Louisville junction. I have shipped from off the line of the Jacksonville, Tampa & Key West and the East Tennessee system from Macon. And over the N. C. and St. L. from Chattanooga.

Q. Have you shipped any to the East?

A. I have been shipping to Eastern points principally by the Clyde line, because I found the time by steamer was quicker. I have perhaps made some shipments by rail. But in past seasons I have found that I could reach the Eastern points by steamer transportation as a rule quicker than by railroad transportation all the way, and hence have been shipping by steamers. I have shipped by the Clyde line because I could ship with more certainty that way from Jacksonville than I could to Savannah, and there are two or three other considerations that have influenced me in shipping by the Clyde line.

Q. In shipping by the Clyde line you have shipped from what points in Florida?

A. From the local roads? From various points on the Florida Southern system, Marion county, and some from Lake county. And also from Orange county by the Florida Southern.

Q. In making those shipments, were they shipped on through bills of lading?

A. They were; except in a few instances when I made local shipments, but these were for reasons entirely personal to me.

381 Q. You shipped mostly by the Clyde line and on through bills of lading to New York?

A. I have, in every instance, except one.

Q. In making through shipments by the Clyde line, how were payments of freight made?

A. The freight rate was inserted in the bill of lading and collected from my consignee at the point of destination.

Q. In New York city?

A. Yes, sir; I have made a few shipments to Baltimore. I think they took the Merchants' & Miners' Transportation line from Sa-

vannah. In most instances I direct my shipments to the terminal point, but in some instances I have not. The roads usually try to give it the most expeditious route, provided they got the longest haul by doing so.

Q. Are oranges from Florida shipped generally in car-load lots as far as you know?

A. There is some uncertainty in regard to that. I do not know how the St. Johns River fruit is shipped. Most of the fruit from the southern and central part of the State is shipped in car-load lots. A large part of the product of the central part of the State goes to the West than that from the east. The eastern part of the State ships very largely to the eastern part of the United States, I think quite largely by steamer.

Q. The shipments that are shipped to the East from the localities in which you are acquainted are mostly in car-load lots?

A. Yes, sir; I suppose from 95 to 98 per cent. of them go in car-load lots. The cars are usually applied for by the shipper and side-tracked at the shipper's packing-house. He has to haul them some distance to the nearest station. They try to get the car placed on the siding and the fruit is then loaded into the car. The
382 roads in Florida have been giving the best facilities they could, but they have fallen considerably short of good transportation facilities, I think. Sometimes there is a scarcity of cars. Sometimes they are not able to furnish enough cars to move the freight. I have had four car-loads of fruit accumulated when, if I could have got the cars, I would have had my fruit loaded. I did make a charge once for trucking the fruit through a depot and loading it in the car. The fruit was delivered in the depot, and at that time I made a charge for loading the car. But as a rule and nearly in every instance I have paid for loading the car when loaded in the depot and transferred to the car.

Q. Could you give any calculation as to the cost of production and getting ready for shipping?

A. Well, I will take the average in the State. We value the oranges at about 45 cents. That includes drayage to the depot. Sometimes it costs 50 cents and sometimes 40 cents. Where a man has a large acreage he can hire help and get a little within that price. Where a little farmer grows only a few boxes or makes the children do the wrapping and does not count the time, that reduces the cost; but that is hardly legitimate. I make the cost, with the cheapest and best management of my men, about 40 to 50 cents.

Q. The wrapping and packing and getting to the depot would be about 45 cents?

A. Yes, sir.

Q. What would the estimated cost of production average per box?

A. I have some figures that I have made up upon the cost of the production of a grove. It includes the interest account on the cost of the investment, and the cost of fertilizing a grove for a
383 year. I think the cost of production, with the interest on

the investment, which would come to $75. I will read the figures.

Q. Are they in such shape that they could be filed?

A. I do not know. I have a list of shipments I have made here to New York. It is going, to a certain extent, into my personal business, but it shows actual shipments. I shipped to New York, through December, January and February of the present year, 2,343 boxes. The freight on the same was $1,320.25. The sales obtained from the commissionman, $3,503.32. All these shipments that I have here are in the same form. The net in New York from the commissionman was $1.04 a box; the shipments to Boston were small; the net was 73 cents a box; the net to Chicago was 98 cents a box; the net to Minneapolis was $1.00 a box; the net to Memphis was 79 cents a box; the net to Baltimore was 14 cents a box; the net to Augusta, Ga., was 39 cents a box. I made up this average from shipments to New York of 2,343 boxes; Boston, of 82 boxes; Chicago, 3,191 boxes; Minneapolis, 1,546; Memphis, 2,160 boxes; to Baltimore, 147 boxes; to Augusta, Ga., 618 boxes; making a total of 10,087 boxes. I made sales during these months to all points, and have selected Boston, New York, Chicago, Minneapolis, Memphis, Baltimore and Augusta as indicating the prices current through the adjoining States. I shipped a great deal of fruit to other cities, such as St. Louis. But the commissionmen to whom I have been shipping in St. Louis have not made returns and I have only taken account of sales of which I have received the sales. The 10,087 boxes have netted me $13,658.35 from which I have deducted 45 cents a box, or $4,539.15 for material and labor in boxing, leaving $9,119.20. Net on the trees 90 cents a box. I have figured up as near as I can approximately the cost of the purchase of the trees and the additional interest as the years go by for about eight years at $60 an acre. An average yield per acre of 125 boxes, and I think that is a very fair average through a series of seasons. The value of them I have put at 80 cents a box on the tree. I figured up my own at 90 cents. Those I have shipped to obtain that on I know have been very much above the average grade of fruits. Fruit gathered from localities as that sell better than fruit from other localities. And, therefore, I have reduced the actual results obtained from my own by 10 cents, putting it at 80 cents, and from this I obtain $100 an acre on the fruit. I estimate cultivation and fertilization at $30 an acre; on the basis I figured here the interest on that investment is 11 per cent. To produce this 10,087 boxes of fruit that I have taken here requires 80 acres of grove; the net obtained on the fruit less cultivation and fertilization would be $6,719.20, that is reducing the amount given by $30 an acre for cultivation and fertilization. And the amount paid to the transporation companies for moving that product was $7,082.02, which has been more than the result I have obtained from the sale of the fruit. I have been considered largely an advocate of railroads and railroad development and railroad interests, both in my personal relations with railroad men and in my

384

advocacy of their rights. I think they are needlessly attacked by a great many.

Q. The charges that accompany the production of oranges are fixed charges; that is, charges for cultivation and care go on all the same whether there is any crop or not, is it not so?

A. Well, sir, it is very nearly the same. If you do not have a good crop you do not have to use chemicals to prevent the rust from running or discoloring the fruit. In some seasons we have greater expenses than others, owning to different conditions. Sometimes they are more liable to the ravages of insects than at others.

385 Q. While the expenditures are fixed, then, except in those small particulars that you mention, is it not a fact that the returns, owing to the uncertainty of the seasons and crops, are uncertain?

A. They vary a great deal. In my estimate of 125 boxes to the acre I tried to give a full average. Sometimes the yield is 50 per cent. more than other seasons. It is considered an uncertain class of investment. Investments in oranges are an uncertain investment, and it ought to pay larger dividends than other classes of investment. There are mishaps from cold. In March, 1890, a great many people all over the State had their orange crops damaged. It was estimated that the crop would not be a million and a half boxes. In fact, it is a little in excess of any crop we have ever had. In my locality it was shorter than any we have had for years past. In June of last year I thought the crop would not be much less, but owing to the reports that some persons were making in reference to the short crop I reduced my actual estimate as formed in my own mind about 250,000 boxes and I wrote to several commissionmen during the summer and the latter part of the fall that I thought there would be 1,800,000 boxes. But as I was a purchaser of fruit it would look as if I were claiming a larger crop in my own interest, and yet the crop has even exceeded my calculation and I think the calculation of every man in the State.

Q. Did oranges sell on the trees exceptionally high at the beginning of this season?

A. Yes, sir; higher than I have ever known them. They were artificial prices due to the reports of damage from cold, and the great scarcity of fruit in the State. Also to the scarcity of other fruits north, apples, &c., and all other fruit. This led people to the conclusion that prices would be higher.

386 Q. What did oranges sell for?

A. The highest that I know of any being sold for was $1.80. I knew of two instances where $3,000 worth was sold at that price. Then they ranged down to $1 a box on the trees. I made some purchases at $1.50, $1.55, and in some instances $1.60 for a small amount of very fine fruit. And I bought in some instances by going over the groves with the owner of the grove and exercising my judgment as to the quantity in the grove, and we usually agreeing upon a price for the fruit in the grove, and if I ran short of my calculation of course I lost.

Q. What has been the average paid as far as you know?

A. The average is about $1.25. Perhaps there were about two weeks about the first of November when the average of the purchases made during those two months would be higher; I think it would, at any rate.

Q. What has been the average price of sale on the trees the previous seasons, if you remember?

A. From 90 cents to $1.25 in previous seasons. The men who bought this fruit in the early fall have been governed by their prices at which they sold to the commissionmen north by the price they paid for the fruit on the tree with transportation added. So that they have been the losers to a great extent. I know I have had fruit not to come to as much in New York city or Chicago as I paid for it on the trees.

Q. And then where the contract was made with reference to the rates existing previous to November 23d there was additional loss?

A. Yes, sir.

Q. Are not the dangers you spoke of, that is, the uncertain-
387 ties attending the production of oranges, the cold especially, and other things, something that exist every year?

A. Yes, sir; there are. Conditions in different sections of the State which reduce the profits in that particular locality, while other localities might succeed as well as usual and *vice versa*. In looking over the debits against the various orange properties I have, those that I have raised myself and some I have purchased, I find upon the debit side against all my orange groves more than $435,000 that they are still debited with. And of course they are subject to mishaps of different kinds. Sometimes I realize that I run a risk of losing very much from sudden or sharp cold that might damage it considerably. I have a good many acres of small trees that are sometimes difficult to damage with the cold depending upon the condition of the trees at the particular time. If it is growing rapidly the damage is great; if it is suffering from drought the damage is slight.

Q. Is it not a fact that the orange grove is something of a very inflammable nature? Is it not a thing that is rapidly destroyed by fire?

A. There are few classes of trees that are so easily damaged by fire as an orange grove, but I think the damage is slight, because the trees themselves will not burn; they are only hurt by fire. I think the risk is very slight. The groves are usually cultivated and are guarded from fire by raking around them, so as to get away the grass that dies in the fall. But the damage is very slight from fire. I have a comparative rate sheet here figured up on the proportion of charges from California to New York and from Florida to New York. I have based it upon what is official.

Q. We will file that. You can look over it. It is a comparative statement of the rates charged from California and Florida to New York.

388 Mr. ELLIOTT:

Q. Who made this?

A. An agent of mine. I based it upon the shortest mileage from California. The mileage was taken from the Official Railway Guide. I make the distance from New York and Boston on the shortest mileage by which it can reach Eastern cities. From Boston I take the Boston and Albany railroad and the Delaware and Hudson River Canal Company, and then the Missouri Pacific, the Union Pacific, and the Chicago and Northwestern and the Pennsylvania system.

Q. Whom did you say made this up?

A. I directed an agent of mine to make it up.

Q. You do not know that it is correct except that the agent told you so?

A. No, sir; I indicated to him which road I wished him to base the different mileage upon and the calculation as to the percentage of the rates is taken from this official rate sheet.

Q. By whom?

A. By my agent.

Q. You do not do it yourself?

A. No.

Q. Have you compared it with the official schedule- themselves?

A. No.

Q. You do not know that it is correct of your own knowledge?

A. No, sir; I only know that he was acting under my directions.

Q. I think that paper is not admissible. It is not proved that he made it up.

389 The CHAIRMAN: It is not proved strictly. Strictly it is not evidence.

Mr. ELLIOTT: The objection that we have is that there may be something in it that is materially wrong.

The CHAIRMAN: Under such circumstances we shall make no use of it except by reviewing it.

Mr. COOPER: Well, I will not insist upon it. We have quite a considerable deal of the same kind of testimony, but there is no use in multiplying it. Mr. Pennington, the general freight agent of the Florida Central and Peninsular road, promised to furnish us this year with some sheets. We may wish to put in those sheets when they come and have them identified.

The CHAIRMAN: That will be all right; I believe Mr. Pennington is here now. Mr. Pennington, will you please resume the stand.

MAY 2ND, 1892.

Met pursuant to adjournment.
Present as before.

Mr. JOHN D. SINCLAIR appeared as a witness on the part of the complainant, who, having been duly sworn, deposes and says:

Direct examination by Mr. COOPER:

Q. What is your business?
A. I am agent of the S., F. & W.
390 Q. At Jacksonville?
A. Yes.
Q. Have you in your possession an impression book of waybills for S., F. & W. train 208, April 10th, 12th, 13th, 14th and 15th?
A. I have.
Q. Will you please refer, beginning on April 10th, to these books?
A. Well sir, this is the impression book of the waybills for each shipment and is a guide, showing the car number, seal, record, and destination of the cars.
Q. Taking examples, Mr. Sinclair, S., F. & W. car 422 ventilated, what were its contents?
A. Box car loaded at Jacksonville with perishable freight for Ocean Steamship Co. and New York. That is the train record.
Q. What were the contents?
A. Just itemize each and furnish the destination?
Q. Yes.
A. 1 bale wool for New York; 3 cases varnish, New York; 1 barrel honey, New York; case dry goods, New York; box paint brushes, New York; 66 boxes oranges, New York; 2 boxes oranges, New York; 37 boxes oranges, New York; 13 ditto, New York; 13 ditto, New York.
Q. C. & S. car 564, same date, ventilated?
A. 4 cases vegetables, Baltimore, 4 barrels tar, Baltimore, 1 box books, Baltimore.
Q. S., F. & W. 1364, ventilated?
A. 6 boxes oranges, Ottawa, Ills.; 2 barrels potatoes, Atlanta; 1 box canned fruit, Chattanooga; 5 boxes oranges, Pelican Rapids, Wis.; 9 boxes oranges, Cincinnati; 1 box clothing, Adaroundac, Mich.; 3 boxes oranges, Indianapolis; 2 boxes oranges, Knoxville.
Q. Georgia Midland 1061?
391 A. 21 boxes oranges, Boston; 69 boxes oranges, Boston; 1 box earthenware, Boston; box dry goods, Boston; 8 cases glass, Boston.
Q. On April 12th, L. & N. 16460?
A. 2 refrigerators strawberries, Boston; case wine, Boston; 7 packages household goods, Boston; 1 barrel plants, Boston; 1 empty barrel, Boston; 5 cases personal effects, 1 box tools, Boston; 2 barrels oranges, 1 bale burlaps.
Q. April 13th, C. & S. 16, ventilated?

A. 4 boxes oranges for Boston, all rail; 14 crates beets, case hams, Savannah; 2 barrels oranges, Savannah; box cheese, Savannah; 3 cases cigars, Savannah.

Q. Didn't you find hides in there?

A. Yes, for Richmond, 55 bales green salt hides.

Q. Now L. & N. 15133, ventilated?

A. 1 bath-tub, Boston; 5 packages crockery-ware, 2 more, all for Boston; box jelly, 2 refrigerators strawberries, 3 boxes oranges.

Q. S., F. & W. 554 ventilated?

A. 32 barrels cabbage for New York; 2 barrel crates cabbage, New York; 16 boxes oranges, 15 bxs. oranges, 1 box dry goods, 1 barrel crockery, 24 packages wine, 2 refrigerators celery and one of strawberries.

Q. E. G. S. 8941, ventilated?

A. 9 bxs. oranges, New York; 1 table, Boston; barrel tinware, Boston; 5 cases jelly, Boston; 1 bx. books, Boston; 15 empty coffee cans, Boston.

Q. L. & N. 15269 ventilated? April 14th.

A. 36 bxs. oranges, Savannah; 5 bxs. oranges, Savannah; 1 case oatmeal, Savannah; 10 bxs. oranges, Lynchburg, Va.; box brushes, Charleston; 2 packages clothing for Asheville, N. C.; 14 barrel crates cabbage, Richmond, Va.; 12 bxs. oranges, 5 brls. potatoes, Washington; case cigars, Washington; 48 bxs. oranges, Jersey City.

392 Q. Don't you find any hides in that car?

A. 15 bales.

Q. April 15th, S. A. M., 3406, ventilated?

A. 22 bxs. household goods, Boston; 6 packages clothing and dry goods, Boston; 8 empty coffee cans, Boston; 77 boxes oranges, Boston; 10 bxs. oranges, Boston; 2 bundles trees, Philadelphia; 10 bxs. oranges, Boston.

Q. S., F. & W. 1364, ventilated?

A. 1 bx. oranges, Huntsville, Ala.; box brushes, Bristol, Tenn.; case chairs, Selma, Ala.; chest tools, Warsaw, Ind.; box brick, Macon; 1,800 pounds household goods, Cleveland, O.

Q. I. C., 14095, ventilated?

A. 2 bxs. printed goods, Balto.; 22 bxs. oranges, Balto.; 7 brls. potatoes, Balto.; 5 brls. potatoes, Balto.; 17 bxs. oranges, Balto.; 16 bxs. oranges, Phila.; 2 couplers and box fitting, Balto.

Q. C. & S. 598, ventilated?

A. 6 bxs. oranges, Savannah; 2 cases prunes, Savannah; shipment household goods, 700 pounds, Savannah; case hats, Savannah; box household goods, Calhoun, Va.; box paint brushes, Roanoke.

Q. Florence 346?

A. 10 bxs. oranges, New York; 25 bxs., 2 bxs., 2 bxs., 2 bxs., 9 bxs., all oranges for New York; 4 crates cucumbers, 1 brl. potatoes, 12 cases jelly, 4 crates crackers, 9 cracker cans, all for New York; half a barrel of hides, 1 refrigerator strawberries.

Q. April 16th, S., F. & W. 1954, ventilated?

A. 4 bxs. oranges, N. Y.; 5 refrigerators strawberries, 2 bxs. paint

brushes, 25 packages groceries, canned goods, 4 brls. cabbage, 2 brls. beans, 20 bxs. oranges.

Q. L. & N. 16684, ventilated?

393 A. 1 b'x rifles and shotguns. They belonged to the United States.

Q. April 17th, 1264, ventilated?

A. 14 bxs. oranges, Savannah; 13 more, 39 more, 5 more, 25 bales green salt hides.

Q. S., F. & W. 68, April 17th?

A. Box salt, 3 cases japanned goods, 7 brls. cabbage, 20 more, 41 bxs. oranges, 63 bxs. oranges, 1 baby carriage, 1 case jap. goods, 2 crates trunks. On the 16th our train left special, being Saturday night.

Q. You say these two last were forwarded on the 17th?

A. Yes.

Q. What day were they loaded on?

A. I have not the loading record.

Q. Do you know from your own knowledge or any other information when they were loaded?

A. No, sir. I can get the information.

Q. W. & W., 1173?

A. Went forward on the 16th on special train. 2 brls. oranges, Charleston; 1 b'x brushes, Savannah; 1 case cigars, Washington; 13 barrels potatoes, Washington; 10 bxs. oranges, Washington; 6 brl. crate cabbage, Washington.

Q. I wish you would get the information when these two cars, 1264 and 68, that went out on the 17th, were loaded?

A. Yes, sir.

Q. Mr. Sinclair, what is the rate per barrel on flour from New York to Jacksonville via Ocean Steamship and S., F. & W.?

(All the foregoing testimony is objected to by defendants'
394 counsel on the ground that same is irrelevant and not germain to any issue involved, and not tending to prove or disprove any issue involved in this cause.)

A. The rate is 25 cents, though we don't receive any flour from New York.

Q. Do you recollect what the weight of a barrel of flour is estimated at?

A. Estimated at 200 pounds.

Q. Do you recollect that is the rate per hundred pounds on apples from New York to Jacksonville via Ocean Steamship and S., F. & W.?

A. 18 cents.

Q. Recollect what the rate on cabbage and potatoes per 100 pounds from New York to Jacksonville by same line?

A. 18 cents per 100 pounds.

Cross-examination by Mr. HARTRIDGE:

Q. Mr. Sinclair, what period of time do the shipments of the cars

about which you have been asked in your direct testimony, range from? Commence when and end when?

A. April 10th, ending April 17th.

Q. What periods of the year are the orange shipments the heaviest?

A. December, January, February and March are the four heaviest months.

Q. Is the month of April a heavy or a light month in the shipment of oranges?

A. Ordinarily it is a light month. This year it was extremely so.

395 Captain D. E. MAXWELL appeared as a witness on behalf of the complainant, who having been duly sworn, deposes and says:

Direct examination by Mr. COOPER:

Q. Will you please state whether or not it is a fact that new freight cars generally made for use on the Florida railroads are now all made, or substantially all made ventilators?

A. I think that is the case with the majority of the cars of the lines of Georgia, Alabama and Florida. That is addended, of course, with an additional cost of about 20 per cent.

Q. These cars are now being made for all general freight purposes, ventilators? That is, the cars that are used for general freight purposes?

A. The same cars are used in the general traffic, yes.

Q. Captain, in testifying in behalf of the defendant the other day, you were asked whether in your opinion 40 cents per box was a reasonable rate, and stated that it was if other rates with which you compared it were reasonable, or something to that effect. In making that comparison, did you have in mind the all-rail rate to the West? Was that the basis of your comparison?

A. Yes, the comparison referred to was to the West.

Q. In stating that opinion did you have in mind the expression of an opinion on the reasonableness of a steamer or water rate to the East, or were you considering the question of rail routes? Did you also have in mind the allowance of differentials between the steamer rates and the all-rail rates to the northeast?

A. I simply considered the question of a 40-cent rate without its connection with the other route or either one of the other routes.

396 Cross-examination by Mr. HARTRIDGE:

Q. Then just based upon your experience and knowledge of transportation matters, in your opinion the 40-cent rate was a reasonable rate per box to New York?

A. Yes, sir.

Q. Referring to cars. Are they made ventilated unless so ordered?

A. Never unless ordered, unless so stipulated in the specifications.

Q. Then the making of ventilated cars is due to the directions of the transportation companies?

A. Entirely.

Q. You say there is some 20 per cent. additional cost in their construction?

A. I should judge so. That is the calculation we make when ordering our cars.

Q. What is the average cost of the ordinary car?

A. From $400 to $450.

Q. The ventilated cost what?

A. From $500 to $550.

Adjourned until 3 p. m.

*Afternoon Session.*

Mr. J. D. SINCLAIR recalled for cross-examination.

Q. You testified this morning as to the contents of certain cars between April 10th and 17th. I will ask you if during the months when the orange shipments are heavy if hides and other matters that you stated in the shipments mentioned are included in the orange shipments in the cars.

397 A. Well, early in the season when the orange shipments are rushing these shipments are not included except in the Savannah transfer cars. These quite frequently and nearly always in the rush of the season go on the train No. 4.

Q. That is without any mixture in them?

A. No; we sometimes have freight for Savannah local leaving here at 9.45.

Q. Then you mean by Savannah transfer the freight that is for Savannah local?

A. Savannah local and Baltimore steamers, that is, loaded in cars for Savannah proper.

Q. Not for New York?

A. The Ocean Steamship Co. and the Savannah & New England Steamship Co., their wharves are separate from the Merchants' and Miners' Transportation Co. Freight for the Merchants' and Miners' Trans. Co. is loaded in Savannah local cars.

Q. Is the Ocean Steamship Co. loaded in Savannah local?

A. No, it is loaded to Central wharf.

Q. In the shipment in the busy season of oranges, do you include hides and other produce?

A. During the heavy shipment of oranges we have solid cars of oranges.

Q. Do you know anything of the shipments of the complainant here, The Fla. Fruit Exchange?

A. Yes, sir, I do.

Q. Do you know the character of the cars in which they demand their shipments to go?

A. Yes, sir.

Q. What is their character?

A. Ventilated fruit cars.

Q. Will they accept any other kind?

A. No, sir.

398 Q. Has anybody for them refused other kinds of cars and demanded these?

A. They have refused other cars and demanded these. They have in one or two isolated cases accepted tight boxes when ventilated cars could not be had for the shipment.

Q. But for steamer shipments what have they demanded as a rule?

A. Ventilated cars.

Q. Have there been instances where they rejected the tight boxes?

A. Yes, sir.

Q. Who rejected them?

A. Well, Mr. Marvin was in charge of the shipping and Mr. Ives has refused sometimes.

Q. And demanded ventilated cars?

A. Yes.

Redirect examination by Mr. COOPER:

Q. I understand you to say, Mr. Sinclair, that sometimes the fruit exchange was compelled to load in tight box cars because you had not the ventilated cars?

A. They have in one or two instances that I have in mind, one especially.

Q. You said that during the season of heavy shipments of oranges the freight on this train 208 was not mixed or less mixed. Is it not a fact that at any time of the year that train carries any kind of freight, provided you have a place to put it?

A. Yes. In connection with that I will state that the mixing of freight in cars does not necessitate the delivery to the steamer of non-perishable freight because it goes in the same car. It is billed separately and manifested separately. When train arrives

399 within a few hours of the leaving time of steamer the perishables are taken on board of the steamer and that manifest is reported.

Q. Is it not a fact that at any time during the season when freight offers and you have a place, that non-perishable freight is loaded in the same car as oranges?

A. It is loaded in the same car, but manifested separately to the steamer.

Recross-examination by Mr. HARTRIDGE:

Q. Is not the orange always given the preference, though?

A. The orange is given second choice, strawberries first. They are all handled separately. For instance, if the train got there within a few minutes of the leaving time of steamer with a few refrigerators of strawberries they would be delivered and the oranges would be left.

Redirect:

Q. Have you been here or on the line of the S., F. & W. between here and Tampa when they have been making banana shipments?

A. Yes.

Q. How with reference to bananas about preference?

A. We have never had bananas for steamer. They went to the West in solid train.

Q. They ran to the West?

A. Yes; we have never had them.

Q. What is the despatch of these banana trains? Are they given unusual despatch?

A. They are given a fast schedule. The train you speak of was for the shipments from Tampa, which is now discontinued. They were given a special schedule for solid train all the way
400 through. It was a train for one destination to start with, and arrangements were made for a solid train to go through. If one car should come it would take the regular schedule train.

Q. You mean by the regular schedule train, 208?

A. If there was room on 208.

Recross-examination:

Q. There was no regular shipment of bananas then?

A. No; that was a special enterprise. There was a ship chartered that landed at Tampa.

Q. From what points?

A. From the northern coast of South America, I think.

(Filed in evidence a certified copy from the files of the Interstate Commerce Commission, of the banana rate from Port Tampa via the S., F. & W. to the Ohio river and Chicago.)

A. M. IVES recalled.

Direct examination:

Q. I have here rate sheet and division tables of bananas from Port Tampa to the Ohio river, Cincinnati and Chicago, and there appears to have been two routes of shipment, one via short route via Jesup and Chattanooga. Can you state of that route how many miles is over the Savannah, Fla. & Western, via Jesup and Chattanooga to the West?

A. 115 miles.

Q. The through route embraced in this rate sheet and accompanying tables is the long line via Bainbridge and Montgom-
401 ery and the same Western destinations. Can you state what proportion of this line is over the Sav., Fla. & Western road?

A. 216. It is 76 miles from Jacksonville to Waycross and 140 from Waycross to Bainbridge, making a total of 216.

Q. There was testimony given heretofore, I believe, by Mr. Papy, as to the number of boxes of oranges shipped from Florida base

points via the Sav., Fla. & Western road and steamer to northeastern cities, in which he stated there was some portion of that that he was not able to segregate that went by the Merchants' & Miners' Transportation line from Savannah to Baltimore. Can you state about what proportion of the total shipment over the S., F. & W. and by steamer to the northeast goes to Baltimore by the Merchants' & Miners' line?

A. I do not know exactly as to that. I should judge about 100,000 to 125,000 boxes went that way. I could not say positively.

Q. When you state that you cannot say positively, have you information that enables you to form an approximate estimate with reasonable certainty?

A. The figures I have are for steamers, the totals for steamers, and it does not give Baltimore separate from the others.

Q. Do you know about what the Baltimore sales are?

A. Yes; from all information I can gather it would amount to about 125,000 I judge.

Q. Do you keep informed as to the amount of orange sales in Baltimore or receipts there?

A. Yes; that goes in by A. C. D.

Cross-examination by Mr. HARTRIDGE:

Q. Do you know in the shipment of bananas the quantity loaded in a car?

402 A. They call a car-load 20,000 pounds of bananas. I am not positive, but I think it is 20,000 pounds. It may possibly be the same as oranges, but I think the rate is based on 20,000 pounds.

Q. These oranges that you speak of to Baltimore. By what route did they go?

A. I should judge that about 125,000 went by the Merchants' & Miners' line.

Q. Do you know whether bananas are shipped released or not?

A. I do not know.

Redirect:

Q. If you are aware, will you please state how bananas are shipped in cars, as to how they are stored?

A. I have seen them unloading bananas at this point, and they had some straw strewn on the floor and put the bananas on that, and then they had a deck above that and loaded on that, and also hung them up around the car.

MAY 2ND, 1892.

Met pursuant to adjournment.
Present as before.

Col. A. W. COCKRELL appeared as an expert witness on behalf of complainant's counsel, who being duly sworn, deposes and says:

Direct examination by Mr. COOPER:

Q. What is your profession?

A. I am an attorney-at-law.

403 Q. You are a member of the bar of the United States circuit court, northern district of Florida?

A. I am.

Q. How long have you been engaged in the practice of law?

A. I have been actively engaged in the practice of law since the close of the war between the States.

Q. This case, as shown by the record, is on a petition of the Florida fruit exchange, which is in fact in behalf of all parties interested under the statute, to enforce a decision of the Interstate Commerce Commission which was rendered in the case of The Florida Railroad Commission against The Savannah, Florida & Western Railway Company *et al.*, in which case the decision prohibited the charging by defendant transportation lines of 5 cents per box on oranges from Florida base points to northeastern cities. The present proceeding is against the line composed of the S., F. & W. Railway Co. and the Ocean Steamship Company, and assuming the number of boxes of oranges carried by that line from and to the points designated, in round numbers, at about one million boxes per annum and the amount involved being a charge of 5 cents a box, the cause having been argued on motion for preliminary injunction and referred to the special master herein to take testimony and report the evidence and his findings, in case petitioners' counsel should prevail in the cause, what in your opinion would be a reasonable allowance for petitioners' counsel's fee if the case is prosecuted in the circuit court to a successful termination? I should have added that considerable testimony has been taken before the master, there having been some five sittings for the taking of testimony, involving questions of fact and also questions of expert opinion both from transportation men and fruit-growers and shippers of oranges.

404 A. Upon facts postulated in the question, and upon, as I understand, the fact of a vigorous and extensive resistance by the transportation lines against the enforcement of the prohibition, a fee, as measured by the labor and magnitude of the interests involved, should be not less than $5,000, in my judgment.

Cross-examination by Mr. HARTRIDGE:

Q. Taking into consideration the fact that counsel who conducted the litigation for the fruit exchange was the counsel representing the State commission in which the decree was rendered that is now sued to be enforced, and through that litigation familiarized himself thoroughly with the law and the facts governing the case, would your estimate of the fee still be $5,000?

A. My estimate of the fee would still be $5,000. Of course, the solicitor who conducted the litigation before the Interstate Commission would necessarily be familiarized with the facts on which the commission reached the conclusion and issued the order of prohibition or to direct a prohibition, but the question, as I understand it now, arises upon an effort on the part of his clients to enforce, by mandamus or other proper proceeding, the prohibition against

these lines of transportation; that they did not acquiesce in the ruling of the Interstate Commission, and that ruling is in the nature of an advisory proceeding not capable of being enforced without other and further litigation, and upon the further postulate that this enforcement of this prohibition is being vigorously resisted by the lines of transportation against which the prohibition of the Interstate Commission issued, my estimate is that $5,000 would be a reasonable fee.

405 Q. Considering that the questions involved in both proceedings are the same, would your estimate remain the same?

A. My estimate of the value of the services would be very materially reduced if the attorney for the fruit-growers had nothing to do in this proceeding than to produce the conclusion reached by the Interstate Commerce Commission; if there was no other labor involved than that; if there was no resistence to the enforcement of that prohibition and there was nothing remaining to be done now to enforce this prohibition other than to produce the record under which it was issued, the fee would be very materially reduced.

Q. Considering that nearly half, not quite half, of the testimony taken in this case was the testimony taken in the original case and used by consent of both sides in this case, would that make any difference in your estimate of the fee?

A. Certainly the labor of the solicitor for the fruit-growers would be materially abridged by the concession as to testimony that you have suggested. If the fee is to be recovered simply upon the labor involved without reference to the responsibility there should be a reduction of the fee. If the responsibility considering the magnitude of the interests, is to govern, and considering the fact of a vigorous litigation in the attempted enforcement of the prohibition, it would entitle the complainant's solicitor to the sum I have estimated.

A. W. COCKRELL.

406 Mr. H. BISBEE, appeared as an expert witness on behalf of the complainant's counsel, who, being duly sworn, deposes and says:

Direct examination by Mr. COOPER:

Q. What is your profession?

A. I try to practice law. Have been trying for — last 27 years.

Q. You are a member of the bar of the United States circuit court, northern district of Florida?

A. I am.

Q. This case is a petition under the interstate-commerce law, in equity, to enforce a decision and order of the Interstate Commerce Commission, wherein they commanded that the rate on oranges from Florida base points to northeastern cities be 5 cents less than that which the transportation lines were charging, 5 cents per box less, the defense consisting in substance that the rates are reasonable, etc. On motion to obtain injunction from the court on the order of the commission, the court declined to grant injunction until

further testimony had been taken and referred the matter to a special master to take testimony and report findings, upon which, the findings of the Interstate Commission were filed by the petitioners as *prima facie* case, and thereafter the defendants taking considerable testimony to sustain their answer, a considerable portion of which was taken before the Interstate Commission and refiled by consent, and a large part being original testimony of transportation men and of orange shippers and producers, both as to facts and as to experience on the question of reasonable rates and all the circumstances of the case and assuming the amount of oranges involved in this particular case of The Fruit Exchange *vs.*

407 The S., F. & W. Railway Co. and the Ocean Steamship Co. to be the transportation of about one million boxes per annum in round numbers, at 5 cents per box as the amount involved, and the master is to report, whereupon the matter of course may be reargued in one way or the other before the court and the decree reached, the question I wish to submit to you is, the statute allowing to petitioners in case they are successful a reasonable counsel fee, what would be a reasonable counsel fee in case they were successful on the final hearing before the circuit court? Of course that would not involve the question of appeal. It involves all the proceedings up to and including a successful termination in the circuit court. In case of success, the decree will be an injunction of the further charging of these rates and will not involve a refunding, but will involve an injunction of the charging of this additional rate permanently, or so long as the injunction remains in force. The proportion of business which they transport, as shown by the evidence, is about one million boxes a year. The present proceeding has been going on now for some months. The drawing of the petition required considerable time and care because it was a new proceeding to us here entirely, and as far as I know there is no precedent given. There are two cases reported in the Federal Reporter, but neither go into it to any extent, and it had to be framed as an original proceeding on the inter-commerce act. The drawing of the petition occupied about a week, I think, of course with other business. The answer is a long one. There have been five sittings to take testimony besides several other meetings and the matter has been discussed before the circuit judge twice, once in chamber and once in equity.

A. Can you give me an estimate of the number of days altogether that you have been occupied?

408 Q. Well the matter has come up from time to time. As I have said, the taking of testimony has consumed 5 days, that is, 5 days' sittings. We have had several other meetings and the matter altogether, one way and another, has occupied probably 2 weeks' time, probably a little more.

A. Do you mean to say that is all the time, 14 days, that has been put into it?

Q. Not all the time because there have been examinations of evidence and the getting up of testimony and one thing and another.

I suppose from 3 to 4 weeks would cover everything; 4 weeks would.

A. After the testimony is in it has got to be argued, has it?

Q. It has got to be argued before the court. There would have to be an argument before the master, I presume.

A. I do not consider that I am informed of the record in this case, of the work already done by counsel for complainant and that which will have to be done before a decree is reached, the final decree, to be able to testify with any degree of accuracy as to the amount of compensation that should be awarded complainant's solicitor. I will say, however, that I have been engaged in one or more cases involving questions somewhat similar to those involved in this case, I mean both questions of law and questions of fact, and I think it would be safe to say that from $3,000 to $5,000. $3,000 the minimum and $5,000 the maximum, would be reasonable compensation for complainant's solicitor.

Cross-examination by Mr. HARTRIDGE:

Q. Considering that all of the details of this case came to the attention of counsel in a suit prosecuted for the State commis-
409 sion against the defendant here, the decree in that cause being the object of the petition here, the enforcement of that decree, and there being no necessity for investigation in this new cause, either of facts or law, would your judgment be changed as to the amount of the fee?

A. I have in my answer assumed that the counsel for complainant would, in this case, utilize his knowledge both as to the law and facts gained in the preceding action, and for that reason I have made my answer in the form I have, between $3,000 and $5,000.

Q. Considering the fact that of the 260 pages of typewritten testimony taken, that in the neighborhood of 100 of it was taken in the original proceeding of the State commission *vs.* the defendant here and by consent used in this case without re-examination of the witnesses giving the testimony, would your opinion be changed?

A. No; I think it would still be worth the minimum sum I mentioned, because in arriving at compensation for counsel I take into consideration not only the physical labor and mental labor and time consumed, but professional responsibility, and I can see it is a case involving considerable responsibility as well as skill.

Q. Is it not a fact that the responsibility is decreased where the relief sought is in the nature of a negative relief, and not in the nature of a compensatory relief in the way of the recovery of money?

A. I do not think that ought to reduce the compensation. It is seeking to prevent in the future what has been done in the past, and if accomplished the result is as beneficial as if in recovering money, and there the matter would end.

Q. You spoke of being engaged in a similar litigation. You represented the same cause that the counsel here represents, did you not?

410 A. No. When I say I have been engaged in one or more cases involving similar questions as to reasonable compensation of common carrier, I refer to two cases, a case of Bishop, Hoyt & Co. and others (in fact there was 6 cases but all heard on the same testimony) and the case of C. H. Mallory & Co. and The New York and Texas Steamship Co. against The Florida Railway and Navigation Co. and H. R. Duval, receiver, and I know they are very perplexing, and I will add the results sought to be obtained, to wit, what is a reasonable compensation, is very difficult to arrive at and the result of your investigation usually extremely unsatisfactory.

Q. In other words, in seeking to ascertain what is a reasonable rate from a given point to a given point, you were on an open sea without rudder or compass?

A. Yes, there are so many conditions and varying circumstances it is very perplexing and wearing to a lawyer's nervous organization.

411 & 412 U. S. District Court, Northern District of Fla.

FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY *et al.* } No. 30.

*Interrogatories.*

Filed April 12, 1892.

PHILIP WALTER, *Clerk.*

JOHN E. HARTRIDGE,
*Sol. for S., F. & W. R'y Co.*

Service acknowledged and accepted of a true copy of within notice and interrogatories, this 12th day of April, 1892, not waiving any objections to taking said depositions.

C. M. COOPER,
*Sol. for Complainant.*

413 United States Circuit Court, Northern District of Florida.

The President of the United States of America to William R. Willcox, Esq., New York, Greeting:

Know ye, that we, in confidence of your prudence and fidelity, have appointed you a commissioner and by these presents do give you full power and authority diligently to examine upon corporal oath or affirmation, before you to be taken, and upon the interrogatories and cross-interrogatories hereunto annexed H. S. Haines, G. M. Sorrell, James Street, Eugene M. Travis, Henry M. Schutte, E. Ruhlman, J. H. Killough, A. F. Young, and E. Stanley Smith as witnesses on the part of defendant, Savannah, Florida & Western Railway Company, in a certain cause now pending and undetermined in the circuit court of the United States of America for

the fifth circuit and northern district of Florida, wherein The Florida Fruit Exchange is complainant and The Savannah, Florida & Western Railway Company and The Ocean Steamship Company of Savannah, are defendants.

And we do further empower you William R. Willcox, Esq., to examine on the same behalf, and in like manner, any other person or persons who may be produced as witnesses before you; and we do hereby require you William R. Willcox, Esq., before whom such testimony may be taken, to reduce the same to writing, and to close it up under your hand and seal and directed to the clerk of the circuit court of the United States for the fifth circuit and northern district of Florida, at the city of Jacksonville, as soon as may — convenient after the execution of this commission; and that you return the same when executed, as above directed, with the
414 title of the cause endorsed on the envelope of the commission.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, at the city of Jackson-
[SEAL.] ville, in said circuit and district, this 3rd day of June, A. D. 1892, and of our Independence the 116th year.

PHILIP WALTER,
*Clerk of the Circuit Court of the United States for the Fifth Circuit and Northern District of Florida.*

415 In the United States Circuit Court, Fifth Judicial *District*, Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY and OCEAN STEAMSHIP COMPANY OF SAVANNAH.

To C. M. Cooper, solicitor of record for complainant:

Take notice, that on Monday, the 25th of April, A. D. 1892, the defendant The Savannah, Florida & Western Railway Company will sue out from the clerk's office of said court a commission pursuant to rule 67 of Rules of Practice in Equity of the United States Circuit Court, to take the testimony of H. S. Haines, No. 12 West 23d St.; G. M. Sorrell and James Street, of pier 35 North river, N.Y.; Eugene M. Travis, No. 241 Washington St.; Henry H. Shutte, No. 108 Murray St.; E. Ruhlman, No. 261 Washington St.; J. H. Killough, No. 158 West St.; A. F. Young, No. 209 Duane St., and E. Stanley Smith, No. 5 Bowling Green, all of the city of New York, and State of New York, to be read in evidence upon the part of the defendant The Savannah, Florida & Western Railway Company on the trial of this case. The interrogatories to be propounded to the said witnesses before named, in this behalf on the part of the defendant, are hereto subjoined, and you can file cross-interrogatories and join in said commission if you shall so desire.

JOHN E. HARTRIDGE,
*Sol. for S., F. & W. R'y Co.*

Ap'l 12, 1892.

416 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA & WESTERN RAILWAY CO. and OCEAN STEAMSHIP CO. OF SAVANNAH.

Interrogatories to be propounded to H. S. Haines, G. M. Sorrell, James Street, Eugene M. Travis, Henry M. Schutte, E. Ruhlman, J. H. Killough, A. F. Young, and E. Stanley Smith, to be produced, sworn, and examined in this behalf of the part of the defendant The Savannah, Florida & Western Railway Company, by virtue of a commission to be issued in pursuance of the foregoing notice.

*Interrogatories for H. S. Haines.*

Int. 1. State your name, age, and present occupation. If you answer that you are vice-president of the Savannah, Florida & Western Railway Company, state the length of time you have occupied that position, and how long and in what capacity you have been connected with the Savannah, Florida & Western Railway Company?

Int. 2. Please state what line or lines of railroad reached Florida prior to 1881, and any other methods there may have been at that time for reaching Florida?

Int. 3. Do you know how rates from Jacksonville to New York were divided? If so, explain them?

Int. 4. When was the Waycross short line built, and state how much this line shortened the distance from Jacksonville to
417 Savannah, and what reasons operated to keep the rate, as to the Savannah, Florida & Western Railway Company, the same as previous to the construction of the Waycross short line?

Int. 5. If you know, state the proportion of business done on this line between May 1st and October 1st, and also between Du Pont and Gainesville?

Int. 6. After the Atlantic Coast line and the Atlantic Coast Despatch line were established, did Savannah become a competitive point for Northern and Eastern business? If so, explain how?

Int. 7. If you know of any other matter or thing of advantage to the defendant touching the matters in controversy in this case in addition to what you have already stated, state the same as fully as if thereto interrogated.

*Interrogatories to be Propounded to G. M. Sorrell.*

Int. 1. State your name, age, and occupation, how long you have been engaged in that occupation, and how long you have been connected with the Ocean Steamship Company of Savannah?

Int. 2. Are you acquainted with the history of steamboat connection between Charleston, South Carolina, Savannah, Georgia, and

Jacksonville, Florida, and how rates were established? If so, explain same. If you know the divisions of the rates, please state them.

Int. 3. What is the water distance to New York from Jacksonville and Savannah, computed as rail miles? Please explain relatively, and to the rail and steamship rates.

Int. 4. Do you know the origin of the division of rates between the Savannah, Florida & Western Railway Company and its predecessor, the Atlantic & Gulf Railroad Company, and the Ocean Steamship Company, and the reason why it was brought about? If so, state same.

418 Int. 5. If you had any interest in arranging these rates in any way, please state fully your knowledge in regard thereto.

Int. 6. Did you ever apply to the general freight agent of the Savannah, Florida & Western Railway Company for a recast of rates with the Ocean Steamship Company after the construction of the Waycross short line? If so, what was the result?

Int. 7. What have been the demands, if you know, of the orange growers and shippers in regard to rapidity in transportation, and have they been numerous and frequent?

Int. 8. Do you know anything of claims being made for reclamations for damages to shipments of fruit?

Int. 9. In your experience have you ever had a ship delayed for any cause, and, if so, state the time of her delay; and was there, on account thereof, any claim made for damage to oranges?

Int. 10. Has your company endeavored to improve the service, and, if so, in what particular?

*Interrogatories to be Propounded to James Street.*

Int. 1. State your name, age, occupation and how long you have been connected with the Ocean Steamship Company if you reply that you are in their employ?

Int. 2. If in answering the first interrogatory you say that you are in charge of the claim department, will you please state whether any claims were paid on account of oranges for the seasons 1889–'90 and 1890–'91?

Int. 3. If you answer the preceding interrogatory in the affirmative, attach a statement of the claims so paid. If you attach a statement, have it show fancy brands of oranges, such as Tangerines and Mandarins, when such claims were paid.

419 *Interrogatories to be Propounded to Eugene M. Travis.*

Int. 1. State your name, age, and occupation.

Int. 2. If you say you are in the orange business, please state, if you know, the market price of sound, merchantable oranges in New York in the season of 1890–'91.

*Interrogatories to be Propounded to Henry H. Schutte.*

Int. 1. State your age and occupation.

Int. 2. If you say you are in the orange business, please state, if you know, the market price of sound, marketable oranges in New York in the season of 1890–'91.

*Interrogatories to be Propounded to E. Ruhlman.*

Int. 1. State your name and occupation.

Int. 2. If you say that you are engaged in the orange business, please state relatively as to how the richness, tenderness and juiciness of the Florida orange compares with others.

Int. 3. What is the most essential element in their transportation?

Int. 4. Will they stand the same delay in handling as either the California or Mediterranean orange?

*Interrogatories to be Propounded to J. H. Killough.*

Int. 1. State your name and occupation.

Int. 2. If you say you are engaged in the orange business,
420 please state relatively as to how the richness, tenderness and juiciness of the Florida orange compares with others.

Int. 3. What is the most essential element in their transportation?

Int. 4. Will they stand the same delay in handling as either the California or Mediterranean orange?

*Interrogatories to be Propounded to A. F. Young.*

Int. 1. Please state your name and occupation.

Int. 2. If you say that you are engaged in the orange business, please state the market price at which oranges ruled in seasons 1889–'90, 1890–'91 and 1891–'92.

Int. 3. What has been your experience with oranges?

Int. 4. From that experience can you say whether the Florida orange is a perishable product or not?

Int. 5. How does it compare with other fruit as to tenderness, richness and juiciness?

Int. 6. Relatively speaking, how does it bear transportation?

*Interrogatories to be Propounded to E. Stanley Smith.*

Int. 1. Are you connected with the Clyde Steamship Company, and if so in what character?

Int. 2. Do you know anything of orange claims paid by the Clyde Steamship Company? If yes, please attach a list of the claims paid on the part of said steamship company for the seasons 1889–'90 and 1890–'91.

JOHN E. HARTRIDGE,
*Sol. for S., F. & W. R'y Co.*

421 In the United States Circuit Court, Fifth Judicial Circuit, in and for Northern District of Florida, in Chancery.

THE FLORIDA FRUIT EXCHANGE
*vs.*
THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY and THE OCEAN STEAMSHIP COMPANY OF SAVANNAH.

The complainant objects and excepts to all the interrogatories filed by the defendant, The Savannah, Florida and Western Railway Company, and to the taking depositions in this cause on the ground that the same is not authorized by the order of the court for taking testimony herein nor by law.

And not waiving but insisting on the foregoing objection, complainant files cross-interrogatories and further exceptions to the several direct interrogatories propounded by said defendant to the several persons hereinafter named as follows:

Complainant excepts to all the interrogatories propounded to H. S. Haines, and each of them, as immaterial and irrelevant and otherwise incompetent.

Complainant excepts to the 2d, 4th, 5th and 6th interrogatories to G. M. Sorrell as immaterial, irrelevant and otherwise incompetent.

422 *Cross-interrogatories to be Propounded to G. M. Sorrell.*

1st cross-int. If in answer to the 8th direct interrogatory you say that you know of claims being made for damages to fruit, state whether you or the Ocean Steamship Company paid for any damaged oranges, or any claims for oranges other than in case of shortage or loss, or broken package of oranges. If you say you or said company paid for damaged oranges, in what instances and to whom and how much was so paid, and what were the causes of such damages?

2d cross-int. If in answer to the 9th direct interrogatory you say there was claim made for damage to oranges on account of delay of ship, state whether said Ocean Steamship Company paid for such oranges; if so, in what case, to whom and how much, and what was the cause of delay and damage?

*Cross-interrogatories to be Propounded to James Street.*

1st cross-interrogatory. If in answer to the 2d and 3d direct interrogatories you say claims were paid on account of oranges for the seasons of 1889–'90 and 1890–'91, what was the nature and ground of each claim paid, was it for loss or shortage or broken package. Append to your statement of claims paid, statement of the nature of each claim, and on what ground paid.

423 *Cross-interrogatories to be Propounded to Eugene M. Travis.*

1st cross-interrogatory. If in reply to 2d direct interrogatory you state the market price of oranges in New York in the season of

1890–'91, state upon what data, figures and calculations do you base such statement. What was the market price for each month of such season? What was the market price for the season of 1891–'92, and each month thereof?

*Cross-interrogatories to be Propounded to Henry H. Shutte.*

1st. If in reply to 2nd direct interrogatory you state the market price of oranges in New York in the season of 1890–'91, state upon what data, figures and calculations do you base such statement. What was the market price for each month of such season? What was the market price for the season of 1891–'92, and each month thereof?

*Cross-interrogatories to be Propounded to E. Ruhlman.*

1st cross-interrogatory. Is it not a reasonable freight rate or charge that will leave some compensation or profit for the producer or shipper of oranges as essential an element in their transportation as any other?

*Cross-interrogatories to be Propounded to J. H. Killough.*

424 1st cross-interrogatory. Is not a reasonable freight rate or charge that will leave some compensation or profit for the producer or shipper of oranges as essential an element in their transportation as any other.

*Cross-interrogatories to be Propounded to A. F. Young.*

1st cross-interrogatory. If in reply to 2nd direct interrogatory you state the market price of oranges in New York in the season of 1890–'91, state upon what data, figures and calculations do you base such statement. What was the market price for each month of such season? What was the market price for the season of 1891–'92, and each month thereof?

*Cross-interrogatories to be Propounded to E. Stanley Smith.*

1st cross-interrogatory. If in answer to the 2nd direct interrogatory you say claims were paid on account of oranges for the seasons of 1889–'90 and 1890–'91, what was the nature and ground of each claim paid, was it for loss or shortage or broken package? Append to your statement of claims paid, statement of the nature of each claim, and on what ground paid?

C. M. COOPER,
*Compl't's Sol.*

425 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY and OCEAN STEAMSHIP COMPANY OF SAVANNAH.

On this 8th day of July in the year 1892, at the city of New York, before me, a duly appointed commissioner to take testimony in the above-entitled action, came G. M. SORRELL, one of the witnesses named in the annexed commission who having been by me first duly sworn, testified as follows in response to the interrogatories submitted on the part of the defendant The Savannah, Florida and Western Railway Company:

1. Answer to the first interrogatory. My name is G. M. Sorrell; 54 years of age; am manager of the Ocean Steamship Company's and the New England and Savannah Steamship Company's lines; have been nearly six years in that position, and have been connected in all for about 12 years with the Ocean Steamship Company.

2. Answer to interrogatory number two. I have a good recollection of the old steamboat connections between Charleston, S. C., Savannah, Ga., and Jacksonville, Fla., and how the orange rates were established and divided. There were boats running between Jacksonville, and Savannah and Charleston bringing oranges to the Savannah and New York steamers. The rates on the
426 article were evenly divided, the Florida boats taking 50 per cent. and the ocean steamers from Savannah and Charleston to New York also taking 50 per cent.

3. Answer to interrogatory number three. The water distance from Savannah to New York is over seven hundred nautical miles and for prorating purposes in connection with railroads is computed at two hundred and fifty rail miles. The distance from Jacksonville to New York being actually longer, is probably computed in rail miles at something more.

4. Answer to interrogatory number four. The history of the division of rates between the Savannah, Florida and Western Railway Company and its predecessor, the Atlantic and Gulf Co., and the Ocean Steamship Company may be briefly given as follows: For several years prior to 1881 the movement of oranges out of Florida to the East was carried on principally by Charleston steamers, fed by a line of boats between Charleston and Palatka, operated in the interests of these steamers; the boats called in at Savannah, and brought some of the oranges for the steamers of the Ocean Steamship Company; the divisions of the through rate between the Charleston steamers, as well as our own, and these Florida boats (the "Dictator," "City Point" and "St. Johns"), was fifty per cent. to each, and when the railroad which is now owned by the Savannah, Florida and Western Railway Company, then called the Atlantic & Gulf railroad, wanted a part of that business, it fell into

the same division; that is, the railroad received fifty per cent. of the through rate and the steamship company received fifty per cent. This was, at the time, a natural division, even by mileage; the water distance to New York was computed at 750 rail miles; the route by rail from Savannah to Jacksonville was in those days, via Live Oak, a distance of about 259 miles. This was the
427 origin of the division of rates between the Savannah, Florida & Western Railway Company (then the Atlantic & Gulf railway) and the Ocean Steamship Company.

5. Answer to interrogatory number five. I found these rates in existence, and continued to work them as they were found.

6. Answer to interrogatory number six. In the year 1881 the Savannah, Florida and Western Railway Company constructed a line of railway from Waycross to Jacksonville, which shortened the distance from Savannah to Jacksonville to 171 miles. I then applied to the general freight agent of the Savannah, Florida & Western Railway Company, calling his attention to the fact that the steamers of the Ocean Steamship Company had a longer mileage than the Savannah, Florida & Western Railway Company on the haul from Jacksonville to New York, and asked for a recast of the divisions by which he could get a larger proportion; the answer was made to me that it would work a hardship on the railroad company to have to pay a penalty for having incurred the great expense of constructing the Waycross short line, thereby shortening the distance to Jacksonville, by which so much was expected for the movement of the Florida crop, and that it would be unjust and unfair to expect the railroad company as the initial and gathering road to suffer in this respect for what was being done in the common interest of the through line as well as for its own direct advantage.

I recognized that there was much in this view of the situation to commend itself and pressed my application no further; and from that time to the present the rates on oranges to New York by the "Florida Despatch line," otherwise as the Ocean Steamship Company's line have been so divided, as is shown by the testimony
428 in the orange-rate case now pending before the Interstate Commerce Commission.

7. Answer to interrogatory number seven. The demands of the orange men, and especially of the commission-houses in New York, with whom I am constantly in contact, are unceasing for increased rapidity in the transportation of the oranges; and the pressure for improved service in the handling and delivery of Florida oranges has been steady and uninterrupted.

8. Answer to interrogatory number eight. I am in general aware that claims are not infrequently made for damages to fruit alleged to be deteriorated in transit by delay.

9. Answer to interrogatory number nine. One of our ships while engaged in an act of humanity in towing a vessel in distress into Norfolk, causing her voyage to New York to be about 48 hours longer than it would otherwise have been, showed very fully the importance attached by shippers to rapid transportation. As the result of this service to the distressed vessel, claims were made by

some of the consignees of oranges on the ground that they were damaged by this short delay.

10. Answer to interrogatory number ten. We have devoted much time, care and expense to the improvement of our service with a special view of handling an article so delicate and valuable as the Florida orange. No class of freight receives at our hands closer or more incessant attention, and it is the desire and intention of this company so long as the rate will warrant its doing so to continue improving the service as its wants may be developed. As examples of the interest given by this company to this class of transportation, I may say that we do not hesitate to urge our steamers to extra speed at increased consumption of fuel for meeting the needs of the
429 market, that one of the company's piers in New York is devoted largely to the handling of this special article which is protected in the winter by a warm-storage arrangement constructed at much expense for this interest alone.

Answer to the first cross-interrogatory. We have not paid for oranges that have been retarded except when it could be shown that there was negligent fault on the part of the steamship company and I know of no such instance.

Answer to second cross-interrogatory. The steamship company did not pay the damages claimed by reason of delay caused by towing a vessel in distress into Norfolk, the company's bills of lading providing for such deviation.

G. M. SORREL.

WM. R. WILLCOX, *Com.*

Taken, subscribed and sworn to before me, at the city of New York, this 8th day of July, 1892.

WILLIAM R. WILLCOX,
*Commissioner.*

STATE OF NEW YORK, } ss:
*City and County of New York,* }

I, William R. Willcox, do certify that G. M. Sorrel, the witness, personally appeared before me on the 8th day of July, 1892, and after being sworn to tell the truth, the whole truth and nothing but the truth, did depose to the matters contained in the foregoing deposition, and did in my presence subscribe the same. And I further certify that I have subscribed my name to each half sheet thereof.

WM. R. WILLCOX, *Com.*

430 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY and OCEAN STEAMSHIP COMPANY.

On this 10th day of Aug., 1892, at the city of New York, before me a duly appointed commissioner to take testimony in the above-

entitled action came HENRY S. HAINES, one of the witnesses named in the annexed commission, who having been by me first duly sworn to tell the truth, the whole truth and nothing but the truth, testified as follows in response to the interrogatories submitted on the part of the Savannah, Florida & Western Railway Company:

1. Answer to the first interrogatory. My name is Henry S. Haines. My age 55 years. My present occupation vice-president of the Savannah, Florida & Western Railway Company. In 1866 I became the superintendent of the Atlantic and Gulf railroad and remained in such position until February, 1877, when said railroad passed into the hands of receivers appointed by the United States circuit court for the southern division of Georgia. I con-
431 tinued to be superintendent under the receivers, and when the property was bought by its present owner, the Savannah, Florida and Western Railway Company, in 1879, I still held the same position with reference to the property until I became general manager in the year 1881. I filled the position until March 1891, when I became the vice-president of the Savannah, Florida and Western Railway Company.

2. Answer to second interrogatory. Prior to 1881 the only line of railroad reaching into Florida, by which oranges and other freights destined for Northern and Eastern points could be carried, extended from Du Pont, a point on the Savannah, Florida and Western railway, 131 miles from Savannah, down to Live Oak and the only means of getting from Jacksonville to Savannah by rail was via Live Oak, a distance of 259 miles. At that time there was a line of steamers running from Jacksonville to Charleston, which did a considerable business, and also a line of steamers from Jacksonville to Savannah.

3. Answer to third interrogatory. The through rate from Jacksonville to New York was divided equally between the carriers from Jacksonville to Charleston or Savannah whether by rail or water, and the carriers from Charleston or Savannah to New York.

4. Answer to the fourth interrogatory. In 1881 the Savannah, Florida and Western Railway Company built the line from
432 Waycross to Jacksonville, thereby shortening the distance by rail from Savannah to Jacksonville 87 miles. This Waycross line is 76 miles long; it runs through an exceedingly poor country, has practically no local business and has diverted through business formerly carried on the line via Du Pont and Live Oak. In order to be self-sustaining it had to have a remunerative rate; it was deemed just and fair that the proportion of the through rate which the Savannah, Florida and Western railway should get, should not be materially decreased on account of its having shortened the line between Jacksonville and Savannah and its connections at Savannah have acquiesced in this division of the rate.

5. Answer to interrogatory number five. The business done on the line between Waycross and Jacksonville from May 1st to October 1st is small and unless the Savannah, Florida and Western Railway Company is allowed a considerable proportion of the through

rate on the winter business, which consists in large part of oranges, this part of its line could not pay expenses. The statement is even more applicable to that part of its line between Du Pont and Gainesville.

6. Answer to interrogatory number six. After the Atlantic Coast line and the Atlantic Coast Despatch line were established, Savannah became a competitive point for north and east bound business between the steamships from Savannah to New York, and the Atlantic Coast line and the Atlantic Coast Despatch line; the last two lines naturally could not and cannot get any considerable amount of the business brought to Savannah by the Sa-
433 vannah, Florida and Western Railway Company if they insisted on the Savannah, Florida and Western Railway Company accepting a smaller proportion of the through rate than it has always had on oranges and other freights going via steamship from Savannah to New York, Boston, Philadelphia and Baltimore; and at the same time the Atlantic Coast line and the Atlantic Coast Despatch line had to be careful in making their rates not to add too much to the rate via steamship from Savannah or they would not have succeeded in getting any business. It naturally resulted from these considerations that the Savannah, Florida and Western Railway Company has always received a proportion of the through rates via the Atlantic Coast line and the Atlantic Coast Despatch line, and the steamships from Savannah which would give it the same remuneration for carrying oranges as far as Savannah by whatever line the oranges went forward from that point to the Northern and Eastern markets; and it also naturally followed that the proportion of the through rates which the carriers north of Savannah making up the Atlantic Coast line and the Atlantic Coast Despatch line received, if comparatively small, could not be greater than the proportion received by the Ocean Steamship Company, beyond what was due to the relative advantages of an all-rail route over a water route. These considerations operated largely in the allowance to the Savannah, Florida and Western Railway Company of the proportion of the through rate which it receives.

7. Answer to seventh interrogatory. I know of nothing further to the advantage of either party touching the matter in controversy.

H. S. HAINES.

434 STATE OF NEW YORK, } ss:
*City and County of New York,* }

I, William R. Willcox, do certify that H. S. Haines, the witness, appeared personally before me on the 10th day of August, 1892, at the city of New York and, after being sworn to testify the truth, the whole truth and nothing but the truth, did depose to the matters contained in the foregoing deposition and did in my presence subscribe the same. And I further certify that I have subscribed my name to each half sheet thereof.

WILLIAM R. WILLCOX,
*Commissioner.*

435 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY and OCEAN STEAMSHIP COMPANY OF SAVANNAH.

On this 11th day of August, 1892, at the city of New York, before me, a duly appointed commissioner to take testimony in the above-entitled action, came JAMES STREET, one of the witnesses named in the annexed commission, who having by me been first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows to the interrogatories submitted on the part of the defendant, The Savannah, Florida and Western Railway Company:

1. Answer to first direct interrogatory. My name is James Street, age, 27 years; occupation, claim clerk in the New York office of the Ocean Steamship Company. Have been employed there since January 10, 1891.

2. Answer to second interrogatory. Yes.

3. Answer to third interrogatory. I attach a statement showing claims paid as appear on the books of the company, which, however, do not give the brands of oranges.

436 *Answers to Cross-interrogatories.*

1. Answer to first cross-interrogatory. My statement embraces claims paid for loss and shortage, also for broken packages caused by robbery.

JAMES STREET.

WM. R. WILLCOX,
*Commissioner.*

STATE OF NEW YORK, }
*City and County of New York,* } *ss:*

I, William R. Willcox, do certify that James Street, the witness, personally appeared before me on the 11th day of August, 1892, at the city of New York, and after being sworn to testify the truth, the whole truth and nothing but the truth, did depose to the matters contained in the foregoing deposition and did in my presence subscribe the same. And I further certify that I have subscribed my name to each half sheet of testimony thereof. And I further certify that the witness swore to and signed the annexed exhibits to each half sheet of which I have subscribed my name.

WILLIAM R. WILLCOX,
*Commissioner.*

437 EXHIBIT A, Testimony of Jas. Street. Wm. R. Willcox, Com'r.

*Claims Paid During Season* 1889-1890 *for Loss of Oranges.*

| Date. | Claimant. | No. boxes, etc. | Am't paid. |
|---|---|---|---|
| 1889. | | | |
| Nov. 12 | Maltby & Ellis | 1 box short | $2 75 |
| " 21 | Lyon Bros. | 3 boxes " | 8 25 |
| Dec. 6 | J. Stout | ½ box robbed | 1 00 |
| " 13 | H. H. Bryant | 1 " short | 2 47 |
| | A. A. Stone | 1 " " | 2 00 |
| | J. B. Cole | 1 " " | 3 00 |
| | B. L. Lilienthal | 1 " " | 3 00 |
| | B. W. Bicks | 1 " " | 2 50 |
| | M. Lane | ½ " robbed | 1 00 |
| Dec. 19 | Frazer & Co. | 1 " short | 2 50 |
| | Taylor & W. | 1 " " | 2 25 |
| Dec. 31 | E. L. Goodsell | ½ " robbed | 1 00 |
| 1890. | | | |
| Jan. 3 | Gamble & Co. | ½ " robbed | 1 00 |
| " 10 | Wessells Co. | 1 " short | 2 75 |
| | Wessells Co. | 2 " short | 4 32 |
| | Wessells Co. | 1 " " | 2 06 |
| Jan. 21 | J. B. Lyons & Co. | 1 " " | 2 50 |
| | R. L. Brower & Co. | 1 " " | 3 50 |
| | Wessells Co. | 1 " " | 2 75 |
| Jan. 24 | G. S. Palmer | 1 " " | 2 50 |
| | C. E. Mansfield | 1 " " | 3 00 |
| Jan. 30 | W. J. Duncan | 1 " " | 3 50 |
| Feb. 6 | E. L. Goodsell | 2½ " " | 5 60 |
| Mar. 4 | Liscompt & Co. | 1 " " | 2 50 |
| " 4 | H. F. Dinock | 2 " " | 5 00 |
| | E. L. Goodsell | 1 " " | 2 75 |
| Mar. 5 | E. L. Goodsell | 1 " " | 2 35 |
| | C. C. Pope | 1 " " | 3 00 |
| | G. S. Palmer | 1 " " | 2 50 |
| | F. M. Leonard | 4 " " | 11 00 |
| | Wessells Co. | 1 " " | 1 70 |
| | E. L. Goodsell | 1 " " | 3 40 |
| Mar. 21 | B. Abel & Co. | 1 " " | 3 25 |
| | Hines & Mansfield | 1 " " | 3 50 |
| | Duncan & Co. | ½ " robbed | 2 00 |
| Mar. 24 | C. E. Maxfield | 2 " short | 7 00 |

WILLIAM R. WILLCOX, *Com'r.*

438 *Claims Paid During Season* 1889–1890 *for Loss of Oranges*—Continued.

| Date. | Claimant. | No. boxes, etc. | Am't paid. |
|---|---|---|---|
| 1890. | | | |
| Mar. 24 | C. E. Maxfield | 1 box short | $3 50 |
| | L. J. P. Bishop | 1 " " | 3 75 |
| April 4 | A. G. Nickerson | 1 " " | 2 50 |
| | G. W. Brady | 1 " " | 4 50 |
| | F. H. Sanders | 1 " " | 2 50 |
| April 6 | C. H. Baker | 2 " " | 6 50 |
| | P. Ruhlman | 1 " " | 3 50 |
| April 21 | Denninger & Co. | 1 " " | 3 00 |
| May 13 | J. B. Lyon & Co. | 1 " " | 5 00 |
| | J. B. Lyon | 1 " " | 4 50 |
| May 21 | Sgobel & Day | 1 " " | 1 25 |
| June 6 | N. Y. C. & H. R. R. R. | 1½ " robbed | 2 00 |
| June 21 | S. B. Downes & Co. | 1 " short | 3 50 |
| | C. Jewell | 2 " short | 4 50 |
| July 7 | C. McNarry | 1 " " | 2 50 |

| | |
|---|---|
| Total No. boxes | 58½ |
| Total amount paid | $168 15 |
| Average price per box | 2 85 |

WILLIAM R. WILLCOX, *Com'r.*

439 *Claims Paid During Season* 1890–1891 *for Loss of Oranges.*

| Date. | Claimant. | No. boxes, etc. | Am't paid. |
|---|---|---|---|
| 1890. | | | |
| Nov. 26 | F. D. Lockwood | ½ box robbed | $3 13 |
| Dec. 15 | Hill Bros. | 26 " short | 90 74 |
| 1891. | | | |
| Jan. 26 | F. D. Lockwood | 1 box short | 3 00 |
| Feb. 9 | J. Nix & Co | 1 " " | 3 00 |
| | Corell & Vaniste | 1 " " | 3 50 |
| | C. S. Durling | ¼ " robbed | 75 |
| Feb. 17 | Coons & Cole | ½ " " | 1 50 |
| | Sgobel & Day | 2 " short | 7 00 |
| | Sands, Furber & Co | 1 " " | 2 50 |
| | Wessells Co | 1 " " | 2 03 |
| | Wessells Co | 1 " " | 2 64 |
| Feb. 22 | Stahh & Leake | 1 " " | 3 00 |
| | Pike & Banks | 1 " " | 3 50 |
| | Giles & Hills | ½ " robbed | 1 75 |
| | L. J. P. Bishop | 1 " short | 4 00 |
| | L. J. P. Bishop | 1 " " | 4 00 |
| | J. H. Killough & Co | ½ " robbed | 3 20 |
| | J. H. Killough & Co | ½ " " | 3 30 |
| | Sgobel & Day | 1 " short | 3 00 |
| | L. W. Sherman & Co | 1 " " | 3 50 |
| Feb. 27 | Eaton & Eustis | 1 " " | 3 25 |
| Mar. 2 | G. W. Seigfried | 1 " " | 2 80 |
| | J. B. Lyons & Co | 1 " " | 3 50 |
| Mar. 5 | J. W. Cooper | 3 " " | 21 00 |
| | W. S. Benson | 1 " " | 3 50 |
| | F. M. Leonard | 1 " " | 3 00 |
| Mar. 7 | Eaton & Eustis | 1 " " | 3 50 |
| | Morrison & Co | 1 " " | 2 25 |
| | J. S. Chamberline | 1 " " | 2 00 |
| | W. W. & C. R. Noyes | 1 " " | 4 75 |
| Mar. 8 | Sands & Furber | 1 " " | 3 00 |
| | Amount brought forward | | $181 59 |

WILLIAM R. WILLCOX, *Com'r.*

440 *Claims Paid During Season* 1890–1891 *for Loss on Oranges*—Continued.

| Date. | Claimant. | No. boxes, etc. | Am't paid. |
|---|---|---|---|
| 1891. | Amount brought forward. | .... | $181 59 |
| Mar. 10 | E. A. Brown & Co | 1 box short | 2 25 |
| | H. C. Schwitters | 1 " " | 2 50 |
| Mar. 12 | Robers & Williams | " " | 3 25 |
| | C. S. Durling | ½ " robbed | 50 |
| | Hines & Mansfield | ½ " " | 1 00 |
| | J. W. Comb | ½ " " | 50 |
| Mar. 16 | J. Saita & Co | 1 " short | 5 00 |
| | McCormick H. & Co | ½ " " | 1 25 |
| | F. D. Lockwood | 1 " " | 3 00 |
| | Sgobel & Day | 7 " " | 13 75 |
| | Sgobel & Day | 3 " " | 6 75 |
| | Sgobel & Day | 1 " " | 2 50 |
| | Sgobel & Day | 1 " " | 2 25 |
| | Sgobel & Day | 1 " " | 2 40 |
| Mar. 18 | F. D. Lockwood | 1 " " | 2 75 |
| | J. Saita, Sons & Co | 1 " " | 3 50 |
| Mar. 24 | Taylor & Wallace | 2 " " | 7 75 |
| | P. Ruhlman & Co | 1 " " | 4 00 |
| | A. M. Banks & Son | 1 " " | 2 75 |
| | J. R. Killough & Co | ½ " robbed | 1 50 |
| | A. M. Banks & Son | 1 " short | 3 00 |
| Apr. 4 | Malby & Ellis | ½ " robbed | 2 25 |
| | R. L. Brown & Co | 1 " " | 3 00 |
| | Malby & Ellis | 1 " " | 5 00 |
| Apr. 6 | F. E. Sloan | 1 " " | 2 50 |
| | Sgobel & Day | 7 " " | 20 65 |
| Apr. 12 | Sgobel & Day | 1 " " | 3 00 |
| | J. H. Killough & Co | ½ " " | 1 25 |
| Apr. 18 | Sgobel & Day | 1 " short | 3 25 |
| | Detwiler & Co | 2 " " | 5 50 |
| Apr. 23 | Sgobel & Day | 5 " " | 12 00 |
| | Sgobel & Day | 2 " " | 10 50 |
| | Olivit Bros | 2 " " | 8 00 |
| Apr. 25 | C. S. Durling | 1 " " | 2 00 |
| | J. Saita, Sons & Co | 2 " " | 4 50 |
| | | | $339 39 |

WILLIAM R. WILLCOX, *Com'r.*

441 *Claims Paid During* 1890-1891 *for Loss of Oranges*—Continued.

| Date. | Claimant. | No. boxes, etc. | Am't paid. |
|---|---|---|---|
| 1891. | Amount brought forward | | $339 39 |
| May 4 | Mer. Desp | 1 box short | 4 00 |
| | Sands, Furber & Co. | 1 " " | 3 00 |
| | P. Ruhlman & Co. | 1 " " | 5 00 |
| May 10 | S. Brush | 1 " " | 3 50 |
| | Sgobel & Day | 3 " " | 8 65 |
| | Sgobel & Day | 1 " " | 2 40 |
| | Taylor & Wallace | ½ " robbed | 1 00 |
| May 14 | Sgobel & Day | 2 " short | 6 10 |
| | Taylor & Wallace | 1 " " | 3 00 |
| | Taylor & Wallace | 1 " " | 3 00 |
| May 22 | R. L. Bower & Co. | ½ " robbed | 1 50 |
| | J. H. Killough & Co. | 1 " short | 2 75 |
| | Met. line | 1 " " | 2 75 |
| May 26 | J. H. Preston & Co. | 1 " " | 2 50 |
| | H. F. Nichols | 1 " " | 3 50 |
| June 4 | Giles & Hills | 2 " " | 7 00 |
| | Giles & Hills | 1 " " | 2 75 |
| | Taylor & Wallace | 1 " " | 3 50 |
| | Taylor & Wallace | ½ " robbed | 2 00 |
| | J. H. Preston | 1 " short | 3 74 |
| | | 134 boxes | $411 04 |

Total boxes paid for ..... 134
Total amount paid ..... $411 04
Average price per box ..... 3 07

WILLIAM R. WILLCOX, *Com'r.*

STATE OF NEW YORK, }
*City and County of New York,* } *ss:*

James Street, whose signature is attached, being duly sworn, says that he is — charge of the claim department of the Ocean Steamship Company of New York, and that the paper-writing attached hereto is a true and correct copy of the names of claimants
442 and amounts of claims paid them for oranges during the season of 1890 and 1891, as appears on the books of the Ocean Steamship Company.

JAMES STREET.

Sworn to before me this 11th day of Aug., 1892.

WILLIAM R. WILLCOX,
*Commissioner.*

443 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
THE SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY and OCEAN STEAMSHIP COMPANY OF SAVANNAH.

On the 19th day of Aug., 1892, at the city of New York, before me, a duly appointed commissioner to take testimony in the above-entitled action, came E. RUHLMAN, one of the witnesses named in the annexed commission, who being by me first duly sworn to tell the truth, the whole truth and nothing but the truth, testified as follows, in respo-se to the interrogatories submitted on the part of the defendant, The Savannah, Florida and Western Railway Company:

1. Answer to the first interrogatory. My name is E. Ruhlman; my business that of fruit merchant.

—. Answer to the second interrogatory. The oranges from Florida are more tender and are richer than from California or other countries.

3. Answer to the third interrogatory. Plenty of ventilation and quick despatch in their transportation.

4. Answer to fourth interrogatory. No.

1. Answer to first cross-interrogatory. Yes, but the rates from Florida are far in excess of all other places or country.

444 Mediterranean fruit, distance 4,000 miles, rates nine pence or one shilling per box according to freight rates which is less than one-half the rate from Florida and much less, freight and duties included. Far more care is taken by foreign shippers in securing proper ventilation and good transportation.

E. RUHLMAN.

WILLIAM R. WILLCOX, *Com'r.*

STATE OF NEW YORK.
*City and County of New York,* } ss:

I, William R. Willcox, do certify that E. Ruhlman, the witness, personally appeared before me on the 19th day of August, 1892, in the city of New York, and after being sworn to testify the truth, the whole truth and nothing but the truth, did depose to the matters contained in the foregoing deposition, and did in my presence subscribe the same, and I further certify that I have subscribed my name to each half sheet thereof.

WILLIAM R. WILLCOX,
*Commissioner.*

445 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY and OCEAN STEAMSHIP COMPANY OF SAVANNAH.

On this tenth day of October in the year one thousand, eight hundred and ninety-two, at the city of New York, before me, a duly appointed commissioner to take testimony in the above-entitled action, came A. F. Young, one of the witnesses named in the annexed commission, who being by me first duly sworn to tell the truth, the whole truth and nothing but the truth, testified as follows in response to the interrogatories submitted, and which are hereto attached:

*Testimony of A. F. Young.*

1. Answer to first direct interrogatory. A. F. Young, and my occupation is that of a commission merchant.

2. Answer to second direct interrogatory. I have handled oranges in the course of my business and the ruling price for the season of 1889 and 1890, I should say was $1.75 per box; for the sea-
446 son 1890–1891 the price was $2.60 per box, and for the season of 1891–1892 at $1.50 per box. This estimate is based upon oranges other than the Indian River oranges. I should place the price of the Indian River oranges one dollar per box higher each year.

3. Answer to third direct interrogatory. I have been engaged as commission merchant in the handling of oranges for twenty-five years.

4. Answer to fourth direct interrogatory. All fruit is perishable but the Florida orange is not as much so as many other kinds of domestic fruit. It is more perishable than the Mediterranean orange.

5. Answer to fifth interrogatory. In comparison with other oranges the Florida orange is more tender, richer and more juicy.

6. Answer to sixth direct interrogatory. If properly picked, and handled in packing and in transportation, it bears shipping very well.

1. Answer to the first cross-interrogatory. I base my figures given in reply to the second direct interrogatory by a general review of the prices which controlled during those seasons.

A. F. YOUNG.

WILLIAM R. WILLCOX, *Com'r.*

STATE OF NEW YORK,
*City and County of New York.*

I, William R. Willcox, do certify that A. F. Young, the witness, personally appeared before me on the tenth day of August, 1892, at

the city of New York, and after being sworn to tell the truth, the whole truth and nothing but the truth, did depose to the matters contained in the foregoing deposition and did in my presence
447 subscribe the same and I further certify that I have subscribed my name to each half sheet thereof.

WILLIAM R. WILLCOX,
*Commissioner.*

448 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
THE SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY and OCEAN STEAMSHIP COMPANY OF SAVANNAH.

On the 23d day of Aug., 1892, at the city of New York, before me, a duly appointed commissioner, to take testimony in the above-entitled action, came EUGENE M. TRAVIS, one of the witnesses named in the annex-commission, who being by me first duly sworn to tell the truth, the whole truth and nothing but the truth, testified as follows in response to the interrogatories submitted on the part of the defendant, The Savannah, Florida and Western Railway Company:

1. Answer to the first direct interrogatory. Eugene M. Travis; my age is 29, and my occupation that of a commission merchant.
2. Answer to the second interrogatory. At the request of W. P. Clyde, I spent considerable time in making up the averages and found the same to be two dollars and a half.

449 & 450 1. Answer to the first cross-interrogatoy. I can't find the figures on which I made the above average. I spent considerable in working upon the figures and remember that two dollars and a half was the average price for the year 1890–'91. For the year 1891–'92, from Oct. 1st, 1891, to March 31st, 1892, not including Indian River oranges, averaged $2.13 per box, russets and brights.

| | | | | |
|---|---|---|---|---|
| October | average, | $2.83 | per | box. |
| Nov. | " | 1.81 | " | " |
| Dec. | " | 1.98 | " | " |
| Jan. | " | 2.00 | " | " |
| Feb. | " | 2.00 | " | " |
| March | " | 2.16 | " | " |

These averages are not for oranges that arrived rotten, but refer to merchantable fruit.

EUGENE M. TRAVIS.

WM. R. WILLCOX, *Com'r.*

STATE OF NEW YORK, }
*City and County of New York,* } ss:

I, William R. Willcox, do certify that Eugene M. Travis, the witness, personally appeared before me on the 23d day of August, 1892, at the city of New York, and after being sworn to testify the truth, the whole truth, and nothing but the truth, did depose to the matters contained in the foregoing deposition, and did in my presence subscribe the same. And I further certify that I have subscribed my name to each half sheet thereof.

WILLIAM R. WILLCOX,
*Commissioner.*

451 (EXHIBIT B.) Filed in Evidence with Testimony of H. E. Hutchens March 26, 1892, Marked Exhibit B. Joseph H. Durkee, Special Master.

**OCEAN**

# STEAMSHIP COMP'Y,

**OF SAVANNAH,**

[Cut of Steamship.]

——AND——

# New England and Savannah

## STEAMSHIP COMPANY.

---

**PROPOSED SAILING DAYS FOR MARCH, 1892.**

---

**G. M. SORREL, Manager.**

---

—‡ FAVORITE ROUTE ‡—

——FROM——

**FLORIDA, GEORGIA,**

**ALABAMA, MISSISSIPPI,**

**TEXAS AND CUBA.**

## SAVANNAH TO NEW YORK.

(Central or 90° meridian time.)

| | | | |
|---|---|---|---|
| Tallahassee | Wednesday, | March 2, | 8.00 a. m. |
| Kansas City | Friday, | March 4, | 9.30 a. m. |
| Chattahoochee | Saturday, | March 5, | 10.30 a. m. |
| Nacoochee | Monday, | March 7, | 1.00 p. m. |
| City of Augusta | Friday, | March 11, | 4.30 p. m. |
| Tallahassee | Saturday, | March 12, | 5.00 p. m. |
| Kansas City | Monday, | March 14, | 6.00 p. m. |
| Chattahoochee | Wednesday, | March 16, | 7.00 a. m. |
| Nacoochee | Friday, | March 18, | 8.00 a. m. |
| City of Birmingham | Saturday, | March 19, | 9.30 a. m. |
| City of Augusta | Monday, | March 21, | 10.30 a. m. |
| Tallahassee | Wednesday, | March 23, | 12.30 a. m. |
| Kansas City | Friday, | March 25, | 3.00 p. m. |
| Chattahoochee | Saturday, | March 26, | 4.00 p. m. |
| Nacoochee | Monday, | March 28, | 5.30 p. m. |
| City of Birmingham | Wednesday, | March 30, | 6.30 a. m. |

## SAVANNAH TO BOSTON.

| | | | |
|---|---|---|---|
| Gate City | Thursday, | March 3, | 8.30 a. m. |
| City of Macon | Thursday, | March 10, | 4.00 p. m. |
| Gate City | Thursday, | March 17, | 7.30 a. m. |
| City of Macon | Thursday, | March 24, | 2.00 p. m. |
| Gate City | Thursday, | March 31, | 7.30 a. m. |

## SAVANNAH TO PHILADELPHIA.

(This ship does not carry passengers.)

| | | | |
|---|---|---|---|
| Dessoug | Thursday, | March 3, | 8.30 a. m. |
| Dessoug | Sunday, | March 13, | 5.00 a. m. |
| Dessoug | Wednesday, | March 23, | 1.00 p. m. |

B. R. PRICE,
*Sol. Agent, Jacksonville, Fla.*

C. G. ANDERSON,
*Agent, Savannah, Ga.*

453 NEW YORK TO SAVANNAH.

Pier 35, North river—3 p. m.

| | |
|---|---|
| Nacoochee | Wednesday, March 2 |
| City of Birmingham | Friday, March 4 |
| City of Augusta | Saturday, March 5 |
| Tallahassee | Monday, March 7 |
| Kansas City | Wednesday, March 9 |
| Chattahoochee | Friday, March 11 |
| Nacoochee | Saturday, March 12 |
| City of Birmingham | Monday, March 14 |
| City of Augusta | Wednesday, March 16 |
| Tallahassee | Friday, March 18 |
| Kansas City | Saturday, March 19 |
| Chattahoochee | Monday, March 21 |
| Nacoochee | Wednesday, March 23 |
| City of Birmingham | Friday, March 25 |
| City of Augusta | Saturday, March 26 |
| Tallahassee | Monday, March 28 |
| Kansas City | Wednesday, March 30 |

R. L. WALKER, *Agent*,
*New Pier 35, North River, New York.*

BOSTON TO SAVANNAH.

Lewis' wharf—3 p. m.

| | |
|---|---|
| City of Macon | Thursday, March 3 |
| Gate City | Thursday, March 10 |
| City of Macon | Thursday, March 17 |
| Gate City | Thursday, March 24 |
| City of Macon | Thursday, March 31 |

RICHARDSON & BARNARD, *Agents*,
*North Side of Lewis' Wharf, Boston.*

PHILADELPHIA TO SAVANNAH.

*This Ship Does* NOT *Carry Passengers.*

Pier 41, South wharves—12 m.

| | |
|---|---|
| Dessoug | Tuesday, March 8 |
| Dessoug | Friday, March 18 |
| Dessoug | Monday, March 28 |

W. L. JAMES, *Agent*,
*13 South Third Street, Philadelphia.*

| January. | | | | | | |
|---|---|---|---|---|---|---|
| S. | M. | T. | W. | T. | F. | S. |
| .. | .. | .. | .. | .. | 1 | 2 |
| 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 24 | 25 | 26 | 27 | 28 | 29 | 30 |
| 31 | .. | .. | .. | .. | .. | .. |

| February. | | | | | | |
|---|---|---|---|---|---|---|
| S. | M. | T. | W. | T. | F. | S. |
| .. | 1 | 2 | 3 | 4 | 5 | 6 |
| 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| 28 | 29 | .. | .. | .. | .. | .. |
| .. | .. | .. | .. | .. | .. | .. |

| March. | | | | | | |
|---|---|---|---|---|---|---|
| S. | M. | T. | W. | T. | F. | S. |
| .. | .. | 1 | 2 | 3 | 4 | 5 |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | 31 | .. | .. |
| .. | .. | .. | .. | .. | .. | .. |

OCEAN STEAMSHIP

| April. | | | | | | |
|---|---|---|---|---|---|---|
| S. | M. | T. | W. | T. | F. | S. |
| .. | .. | .. | .. | .. | 1 | 2 |
| 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 24 | 25 | 26 | 27 | 28 | 29 | 30 |

| May. | | | | | | |
|---|---|---|---|---|---|---|
| S. | M. | T. | W. | T. | F. | S. |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| 15 | 16 | 17 | 18 | 19 | 20 | 21 |
| 22 | 23 | 24 | 25 | 26 | 27 | 28 |
| 29 | 30 | 31 | .. | .. | .. | .. |

| June. | | | | | | |
|---|---|---|---|---|---|---|
| S. | M. | T. | W. | T. | F. | S. |
| .. | .. | .. | 1 | 2 | 3 | 4 |
| 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | 29 | 30 | .. | .. |

1892 COMPANY 1892

| July. | | | | | | |
|---|---|---|---|---|---|---|
| S. | M. | T. | W. | T. | F. | S. |
| .. | .. | .. | .. | .. | 1 | 2 |
| 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 10 | 11 | 12 | 13 | 14 | 15 | 16 |
| 17 | 18 | 19 | 20 | 21 | 22 | 23 |
| 24 | 25 | 26 | 27 | 28 | 29 | 30 |
| 31 | .. | .. | .. | .. | .. | .. |

| August. | | | | | | |
|---|---|---|---|---|---|---|
| S. | M. | T. | W. | T. | F. | S. |
| .. | 1 | 2 | 3 | 4 | 5 | 6 |
| 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| 28 | 29 | 30 | 31 | .. | .. | .. |
| .. | .. | .. | .. | .. | .. | .. |

| September. | | | | | | |
|---|---|---|---|---|---|---|
| S. | M. | T. | W. | T. | F. | S. |
| .. | .. | .. | .. | 1 | 2 | 3 |
| 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | .. |
| .. | .. | .. | .. | .. | .. | .. |

OF SAVANNAH.

| October. | | | | | | |
|---|---|---|---|---|---|---|
| S. | M. | T. | W. | T. | F. | S. |
| .. | .. | .. | .. | .. | .. | 1 |
| 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| 16 | 17 | 18 | 19 | 20 | 21 | 22 |
| 23 | 24 | 25 | 26 | 27 | 28 | 29 |
| 30 | 31 | .. | .. | .. | .. | .. |

| November. | | | | | | |
|---|---|---|---|---|---|---|
| S. | M. | T. | W. | T. | F. | S. |
| .. | .. | 1 | 2 | 3 | 4 | 5 |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| 20 | 21 | 22 | 23 | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | .. | .. | .. |
| .. | .. | .. | .. | .. | .. | .. |

| December. | | | | | | |
|---|---|---|---|---|---|---|
| S. | M. | T. | W. | T. | F. | S. |
| .. | .. | .. | .. | 1 | 2 | 3 |
| 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | 31 |
| .. | .. | .. | .. | .. | .. | .. |

455 & 456 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
THE SAVANNAH, FLORIDA AND WESTERN RAILWAY CO., OCEAN S. S. CO., SAVANNAH. } No. 30.

*Master's Report.*

Filed September 17th, 1892.

PHILIP WALTER, *Clerk*,
By JOHN S. DRIGGS, *Dep. Clerk.*

457 In the Circuit Court of the United States, Fifth Judicial Circuit, Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY AND THE OCEAN STEAMSHIP COMPANY OF SAVANNAH.

To the honorable judges of said court:

I submit the following report:

This case arises on petition of complainant asking this court to enforce by its order, decree, injunction, or other proper process, mandatory or otherwise, the decisions and orders made by the Interstate Commerce Commission on the 29th day of October, A. D. 1891, upon the complaint of The Railroad Commission of Florida against The Savannah, Florida and Western Railway Company, and the Ocean Steamship Company of Savannah, and others named in said proceedings, in so far as said orders and decision relate to the Savannah, Florida and Western Railway Company and the Ocean Steamship Company of Savannah.

The petitioner, The Florida Fruit Exchange, alleges that it is a corporation duly incorporated under the laws of the State of Florida, with its principal office at Jacksonville, in the northern dis-
458 trict of Florida, and that the defendant, The Savannah, Florida and Western Railway Company is a corporation by that name under the laws of the State of Florida and the State of Georgia, having business offices and agents at various places in said district; and that the defendant, the Ocean Steamship Company of Savannah, is incorporated under the laws of the State of Georgia, with a business office and agent in said northern district.

That the said defendants are common carriers and constitute a line under a common control or arrangement, for continuous carriage or shipment over said lines, of freight, partly by railroad and partly by water, from Jacksonville, Callahan, Gainesville, Lake City and Live Oak, and other places in the State of Florida, via said named places, to the city of New York, in the State of New York, the city of Philadelphia, in the State of Pennsylvania, the city of

Boston, in the State of Massachusetts, and by connecting lines to other Eastern cities, and as such common carriers, are subject to the act to regulate commerce and all statutes of the United States applicable in the premises and were so on and before the 30th day of December, A. D. 1890, and at all times since.

That Jacksonville, Callahan, Gainesville, Lake City, and Live Oak are base points in determining rates on shipments of oranges and lemons from points within the State of Florida to points without the limits of said State.

That during the season of 1885 and 1886, and for each season since, the defendant corporations established and maintained rates for the transportation of oranges and lemons from said base points in Florida to said points of destination, with but few changes until the season of 1889 and 1890, during which seasons said rates were to New York and Philadelphia by said lines, 30 cents per standard box, and to Boston, 35 cents, and proportionately to other
459 Eastern cities; that each of said defendants received, by agreement between them, a certain agreed proportion of said through rates, as set forth in Exhibit "A," filed with said petition.

That afterwards, to wit, in November, A. D. 1890, said defendants did agree together to advance, and did, to wit, on the 23d day of November, A. D. 1890, actually advance said previously prevailing rates ten cents per standard box, and they have been, and are now, on all shipments from said base points to said points of destination charging, demanding, collecting, and receiving said advanced rates.

That afterwards, to wit, on the 30th day of December, A. D. 1890, the Railroad Commission of Florida filed a complaint with the Interstate Commerce Commission of the United States against the defendants herein, and others, alleging the advanced rates to be unlawful and in violation of the act to regulate commerce, and unjust, unreasonable and excessive and materially injurious to a large class of shippers.

That said complaint was answered by said defendants, and evidence taken thereon before said commission and arguments submitted, and a decision rendered by said commission on the 29th day of October, A. D. 1891.

That by said report, findings, decision and orders of the Interstate Commerce Commission it was ascertained, found, ordered, and adjudged that the said advance made in said rates on the 23d day of November, A. D. 1890, should not have exceeded 5 cents per box, and so far as it was in excess of that amount was unreasonable and contrary to law, and the said defendants were required to forthwith cease and desist from charging or collecting for the transportation of oranges and lemons any greater sum than an addition of 5 cents per box to the rates in force prior to the advance on November 23d, 1890.

460 That said defendants have wholly failed and refused to observe, obey or conform to said order of said Interstate Commerce Commission, and continue to charge and collect said ex-

cessive rates established by said advance of November 23d, 1890, in the northern district of Florida.

The petitioner alleges that the Florida fruit exchange is engaged in the business of shipping and selling oranges and lemons and is a large shipper of oranges and also ships lemons from Jacksonville and Gainesville foresaid, by and over said line of defendants to said cities of New York, Philadelphia and Boston on which the freights charged by defendants have to be paid, and is thereby interested in the observance by said defendants of said order of said Interstate Commerce Commission.

That since said order was made and said defendants have had notice of the same the petitioner has tendered to defendants to be carried over their line from a base point in Florida, to wit: Jacksonville, to the cities of New York, Boston and Philadelphia aforesaid, boxes of oranges of the usual or standard kind customarily used in the Florida trade, and has shipped over defendants' said line, and has offered to pay to defendants for the transportation thereof the rates fixed and ordered to be observed as aforesaid by said Interstate Commerce Commission, to wit: 35 cents a box to New York and Philadelphia, and 40 cents a box to Boston, and has demanded of them the said rates and the observance and performance of said order, and has made tender of payment to defendants in advance of said lawful rates fixed by said order, but said defendants have refused to carry said oranges for the rates fixed by said order, but have exacted, charged and collected, and continued to exact, charge and collect of petitioner and its agents, the said rates established by defendants by said advance of November 23d, 1890.

Petitioner alleges said rates to be unjust, unreasonable, ex-
461 cessive, contrary to law and in disobedience of the said report, opinion, findings, requirements, and orders of said Interstate Commerce Commission.

The petitioner prays that the said defendants, and each of them, be restrained by the order, decree, injunction, or other proper process, mandatory or otherwise, of this honorable court from further violating, disobeying, or in any way refusing to observe, obey, conform to and perform said order of said Interstate Commerce Commission, and from refusing, failing, or neglecting to receive, transport, and deliver properly and promptly oranges and lemons of or from petitioner from said base points in Florida by and over said defendants' line to said points of destination, at rates of charges not in excess of those designated in said order of said Interstate Commerce Commission, to wit: an advance of 5 cents per standard Florida box on rates in effect next preceding November 23d, 1890.

Petitioner further asks that the defendants be decreed to pay the costs and counsel fees herein and for such further relief as to the court may seem meet.

To this petition the Savannah, Florida and Western railway answers and admits that it is a corporation under the laws of the State of Florida and a common carrier, and as such subject to the acts to regulate commerce; it admits that it has established and maintained rates as stated in the petition from the base points

named, and that in November, 1890, said rates were to New York and Philadelphia by said line, 30 cents per standard box, and to Boston 35 cents, and that each of the defendants received by agreement between them the proportion of said rates as stated in Exhibit "A," filed with said petition.

It admits that on or about the 23d day of November, 1890, the defendants did advance the rates 10 cents per standard box, and that they have been and are now on all shipments from said
462 base points to said points of destination, charging, demanding, collecting and receiving said advanced rates.

It admits that the railroad commission of Florida filed its complaint with the Interstate Commerce Commission as alleged, but denies that the averments of said complaint, alleging said advanced rates to be unlawful and in violation of the act to regulate commerce, are true.

It admits that proceedings were had before the Interstate Commerce Commission, but denies that the Interstate Commerce Commission as organized and constituted by and under the act to regulate commerce, as amended, rendered a decision and made orders on the complaint filed, while admitting that the so-called orders and decisions, appearing in Exhibit "A," to the petition are true copies of their originals.

It admits that the defendants continued to charge the rate from said basing points on oranges and lemons put in effect November 23d, 1890, but denies that said rates were excessive.

It admits that the petitioner is engaged in business as stated, and is a large shipper of oranges and lemons from and to the points named in the petition, and is interested in the rates charged thereon, and in any order which might be made by the Interstate Commerce Commission as to said rates, and that the petitioner has tendered boxes of oranges, as stated, to be carried from and to the places named, and offered to pay for the transportation thereof 35 cents per box to New York and Philadelphia, and 40 cents to Boston, and has demanded that such boxes of oranges be carried for said sums, and has made tender in advance of said sums.

It also admits that it has charged and collected and continues to charge and collect of petitioner the said rates established
463 November 23d, 1890, but expressly denies that said — last mentioned are unjust, unreasonable, excessive, and contrary to law, while admitting that said rates are 5 cents per box higher than the amounts mentioned in the so-called order attached as Exhibit "A," to the petition in this case.

The answer further says, that the complaint of the railroad commission of Florida against defendants was filed on the 30th day of December, 1890, and hearing had before the Interstate Commerce Commission at Jacksonville, Florida, on March 30th and 31st, 1891, at which three members of said commission were present, viz: Hon. Thomas M. Cooley, Hon. Martin A. Knapp and Hon. Walter M. Bragg, and that before the 29th day of October, 1891, when a decision was rendered, Hon. Thomas M. Cooley had resigned as a member of said commission, and the Hon. Walter M. Bragg had died,

and that therefore the so-called order and decision of said Interstate Commerce Commission made on the 29th of October, 1891, is not the lawful order and decision of the commission as created by the act of Congress, and the amendments thereto, and that in refusing, neglecting, or failing to obey or perform said order it is not violating any order or requirement of sai dcommission made as a legally constituted commission, or in a legal or authorized way, and that said order is not binding or of any force, so far as this defendant is concerned, and asks that said petition may be dismissed.

It further recites that it filed its application for a rehearing before the said Interstate Commerce Commission on December 22d, A. D. 1891, upon the grounds above stated, which was denied.

It avers that if the findings, decisions, and orders of the Interstate Commerce — were legal and valid they are but findings of fact and cannot be enforced except by the courts, and asks the court
464 to hear and determine the cause anew upon proper pleadings and proofs, not only including the report of said commission but all such other and further testimony as either party may introduce bearing upon the matters in controversy.

It avers that the rates in effect prior to November 23d, 1890, did not afford a just and reasonable compensation for the services rendered, and that the rates put into effect on November 23d, 1890, and which have been since charged, are just and reasonable, and denies every allegation in the petition which alleges that the rates now charged are unjust, unreasonable, or excessive.

Petition filed December 14th, A. D. 1891.

Same date court directed defendants to file answers on December 21st, A. D. 1891.

December 21st, A. D. 1891, time extended to January 4th, A. D. 1892.

Savannah, Florida and Western railway filed answer March 8th, A. D. 1892.

March 23d, A. D. 1892, case referred to special master to take testimony and report with his findings.

Hearing begun March 26th, A. D. 1892. Closing testimony filed with master August 29th, A. D. 1892.

Witnesses examined by petitioner before master:

George R. Fairbanks.
A. M. Ives.
John D. Sinclair.

As to compensation of solicitor:

A. W. Cockrell, Sr.
H. Bisbee.

465 Petitioner also put in evidence certain testimony taken before the Interstate Commerce Commission in case of The Railroad Commission of Florida *vs.* The Savannah, Florida and Western Railway, *et al.*:

Part of testimony of A. C. Knapp.
Part of testimony of James Colhoun.
Part of testimony of A. M. Ives.
Testimony of George R. Fairbanks.
Testimony of M. S. Moreman.
Testimony of C. Delano.
Testimony of C. W. White.
Testimony of L. J. P. Bishop.
All of which is copied into this record.

Witnesses examined by defendant- before master:

H. E. Hutchens.
A. A. Aveilhe.
Wilbur McCoy.
T. F. Huggins.
D. Greenleaf.
J. C. Bruyn.
A. M. Ives.
Rev. Lyman Phelps.
F. B. Papy.
James A. Harris.
N. S. Pennington.
George R. Fairbanks.
J. A. Leslie.
D. E. Maxwell.

Taken upon commission by defendant-:

D. M. Sorrell.
H. S. Haines.
James Street.
466 E. Ruhlman.
A. F. Young.
Eugene M. Travis.

Defendant also put in evidence certain testimony taken before the Interstate Commission in case of The Railroad Commission of Florida *vs.* The Savannah, Florida & Western Railway *et al.*:

Part of testimony of W. H. Joyce.
Part of testimony of Wilbur McCoy.
Part of testimony of G. M. Sorrel.
Part of testimony of J. H. Stevens.
Part of testimony of H. Townsend.
Part of testimony of H. Walters.
Part of testimony of C. D. Owens.
All of which is copied into this record.

Exhibits filed by petitioner:

Exhibit "A."—Reports, findings and orders in case of The Railroad Commission of Florida *vs.* Savannah, Florida and Western Railway Company *et al.*

Exhibit "B," March, 1892.—Schedule sailing time of Ocean Steamship Company steamers from Savannah.

Exhibit "D."—The opinion, findings and order of the Interstate Commerce Commission in the case of The Railroad Commission of Florida vs. The Savannah, Florida and Western Railway *et al.*

Exhibit filed by defendant:

Exhibit "C," copy Times-Union, dated March 25th, 1892.
Brief filed by petitioner September 1st, 1892.
Brief filed by defendant August 31st, 1892.

Charles M. Cooper, solicitor for petitioner, The Florida
497 Fruit Exchange, and John E. Hartridge, solicitor for the defendant, The Savannah, Florida & Western Railway, were present at all hearings before the special master.

The admissions, made in the answer of the defendants to the allegations set forth in the petition, have brought down the questions to be considered here as to whether the increased rates put in effect on the 25d day of November, 1890, over the defendants' lines, upon crated boxes of oranges and lemons from Jacksonville, Callahan, Baldwin, Lake City, and Live Oak, base points upon defendants' lines of railroad, to the cities of New York, Philadelphia and Boston, and by connecting lines to other Eastern cities, were unjust, unreasonable, excessive and unlawful, and in violation of the act to regulate commerce, or were just and reasonable and not in violation of said act.

The question raised by defendant as to the legality and validity of the proceedings had before the Interstate Commerce Commission, and the opinion, findings, decisions and orders thereon, as set forth in exhibit "A" herein, is a matter of law which will be determined by the court.

The rates established and enforced upon oranges from Jacksonville, Florida, via Savannah, Florida & Western railway and Ocean Steamship Company, to the cities of Baltimore, Philadelphia, New York and Boston, during different seasons from October 3, 1881, to the present time, are as follows, viz:

Rates on oranges from Jacksonville, Florida, to points named via Savannah and steamship.

| To Baltimore, Md. | | Philadelphia, Pa. | | New York, N. Y. | | Boston, Mass. | | Taking effect. |
|---|---|---|---|---|---|---|---|---|
| Bx. | Brl. | Bx. | Brl. | Bx. | Brl. | Bx. | Brl. | |
| 50 | 1.00 | 50 | 1.00 | 50 | 1.00 | 50 | 1.00 | Oct. 3, '81. |
| 50 | 1.00 | 50 | 1.00 | 50 | 1.00 | 50 | 1.00 | Oct. 15, '83. |
| 50 | 1.00 | 50 | 1.00 | 50 | 1.00 | 50 | 1.00 | Nov. 15, '88. |
| 30 | .60 | 30 | .60 | 30 | .60 | 30 | .60 | Oct. 6, '84. |
| 40 | .80 | 40 | .80 | 40 | .80 | 40 | .80 | Jan. 12, '85. |
| 40 | .80 | 40 | .80 | 40 | .80 | 40 | .80 | Sep. 7, '86. |
| 40 | .80 | 40 | .80 | 40 | .80 | 40 | .80 | Sep. 15, '86. |
| 30 | .60 | 30 | .60 | 30 | .60 | 30 | .60 | Nov. 18, '89. |
| 30 | .60 | 30 | .60 | 30 | .60 | 30 | .60 | Sep. 1, '87. |
| 30 | .60 | 30 | .60 | 30 | .60 | 30 | .60 | Sep. 15, '87. |
| 30 | .60 | 30 | .60 | 30 | .60 | 35 | .70 | Sep. 20, '88. |
| 40 | .80 | 40 | .80 | 40 | .80 | 45 | .90 | Nov. 22, '90. |

The rates from the other base points in Florida, Gainesville, Callahan, Lake City and Live Oak to the points above named are the same as from Jacksonville, and it is presumed they have been since those places were fixed upon as base points.

The Savannah, Florida and Western railway is a gathering or initial road to only a limited extent, and the total rates to points of destination is made up of the rates before named, together with the local rate from place of original shipment to said base points. [illegible] bills of laden are given from initial points to points of [illegible]

Prior to November 23d, 1890, the orange rate to New York [illegible] by Clyde line, the Mallory line, and the line composed of the [illegible] & W. R'y Co., and the Ocean Steamship Co., 30 cents per [illegible] box of 80 pounds; by the Atlantic Coast line 37½ cents per [illegible] box, and by the Atlantic Coast Despatch line (all rail) 45 [illegible] standard box; that rate had been maintained by the [illegible] since November 18th, 1886.

469 By agreement between the several lines interested [illegible] was increased in November, 1890, ten cents per [illegible] box, and said increased rate was put in effect on Novem[illegible] 1890, and continues to the present time; this is an [illegible] freight rates of 33⅓ per cent. from said base points to the [illegible] New York, Philadelphia and Baltimore.

It is the contention of the defendants that the rate of $1 [illegible] standard box, in effect up to November 23d, 1890 [illegible] 18th, 1886, a period of four years, was not a remunerative [illegible] was originally made as a war rate, when the Clyde line [illegible] put on a steamer at Jacksonville, and put on the [illegible] into Jacksonville," and that it was continued after [illegible] of the freeze in 1886, and the yellow fever in 1887, [illegible] caused general depression in business in Florida, and [illegible]

thought good policy to raise the rate then; the traffic men did not finally recommend the increased rate, but it was made by agreement between the presidents of the lines interested to increase revenue.

The facilities afforded by the defendants in transporting oranges to market are superior to those used in forwarding other freights.

A train known as No. 208 is run between Jacksonville and Savannah daily, leaving Jacksonville at 8.25 p. m., and arriving in Savannah at 8.35 a. m., during the orange season, which is practically a "perishable" freight train; it is claimed that this train is run at a speed of about 18 miles an hour; if the time of departure and arriving is correctly given by the assistant master of transportation of the Savannah, Florida & Western railway the speed would be but 12½ miles an hour between Jacksonville and Savannah, by that train, counting the distance as given at 172 miles. To
470 this train extra care and attention is given in the kind of cars given, in prompt forwarding of freight, terminal arrangements and handling at junctional points; ventilated cars are almost universally used, except occasionally owing to overcrowding of freight, a tight box car may be used. Improvements are being made from time to time in these ventilated cars; and those more recently constructed have the most approved brakes and couplers, with side and end ventilation to the cars. Such cars can be and are used in transporting other classes of freight, but are especially adapted to and built for carrying "perishables." Right of way is given to train 208 over all others. If passenger trains are delayed this train has the right of way over it. A better-paid class of conductors is employed on this train than average freight trains. More fuel is used. Running at a greater rate of speed the wear to the track is greater because of the heavier pounding of the wheel upon the rails. The train is made up at Jacksonville, and there is extra cost for rebilling. Fewer cars are carried on train 208 than on ordinary freight trains. Many of the returning cars come empty, and the cars are seldom loaded to their maximum capacity.

The Ocean Steamship Company reserves the best part of its steamers, and that most completely ventilated, for the orange freights, and has furnished at New York a pier largely devoted to this class of freight, protected in the winter by warm storage, without extra charge to the shipper. The rental value of this pier is from $40,000 to $45,000 per annum. It gives special attention to prompt forwarding and speedy transit, the steamers making extra speed to meet the requirements of the market. Recognizing the necessity of giving quick transportation to the markets for oranges, that company, in building its last ship, the Kansas City, built it with special reference to speed, and it makes 16 knots an hour.

471 There has been a persistent and increasing demand from orange-shippers upon transportation companies for prompt and speedy transit of oranges from the packing-house to the commission merchant, and better methods of shipment with increased facilities for handling, storing and caring for the fruit at terminals have been demanded. In furnishing these the transportation com-

panies have acted intelligently and with a view of securing business. The importance of rapid transit is set forth by one orange-grower (Rev. Lyman Phelps) by the statement that he considers the difference between an eight-day delivery and a five-day delivery from place of shipment, Sanford, Florida, to northeastern cities, at ten cents per box. He also states that lying over en route for three hours might do more damage to the fruit, from want of oxygen, than continuous movement for 48 hours. The Florida orange is considered more tender and delicate than the California or Mediterranean, with less tissue and fibre and more juice, and does not stand shipment as well, ordinarily, its tissues breaking down and fermentation beginning quicker, unless special and intelligent care is taken in cultivating and preparing the orange for the market. The Florida orange is a perishable fruit, but bears transportation fairly well if picked when dry, carefully handled in packing, and shipped in dry weather. It is not as perishable as the strawberry, tomato, ripe peaches, or the banana. Promptness in handling, speed in movement, without delays in route are essential requisites upon the part of the common carriers to ensure the best results from the orange to the shipper. To meet these requirements seems to be the aim and purpose of the defendants, by continually furnishing increased facility for handling, transporting, and storing this fruit.

472 The orange industry is steadily and continuously increasing in volume and importance. It has become a fixed factor in the calculation of the defendants upon which to rely for sure, regular, and large freights.

It is estimated, Fairbanks, president Florida fruit exchange, that the number of orange-growers in Florida is from 10,000 to 15,000, and that there are upwards of 70,000 acres of bearing groves, and from 20,000 to 30,000 acres not yet come into bearing. The value of bearing groves is considered to be $300 per acre, or a total of $21,000,000 for 70,000 acres of bearing groves. The non-bearing groves are estimated to be worth $10,000,000 more. The orange crop in round numbers for the year 1884 and 1885 was 600,000 boxes; 1885 and 1886, 900,000 boxes; 1886 and 1887, 1,260,000 boxes; 1887 and 1888, 1,500,000 boxes; 1888 and 1889, 1,950,000 boxes; 1889 and 1890, 2,150,000; 1890 and 1891, 2,600,000; 1891 and 1892, 3,500,000 boxes. The net return to the grower is put down for 1888 and 1889 at $1.72 per box; for 1889 and 1890, $1.52; 1890 and 1891, $1.54; 1891 and 1892, $1.05. These figures represent the actual return to the orange-grower at the point of shipment, and do not include the cost of production, packing and boxing. These items of costs are variously estimated. At a yield of 100 boxes to the acre it is stated that the expense of cultivation would be $15 per acre, fertilizing $15 per acre, boxing, picking, etc., 100 boxes at 40 cents per box, $40.00; interest on value of grove, $300.00, $24.00; total, $94.00. Net returns for 1891 and 1892 $1.05 per box, leaving $11.00 profit per acre after paying interest on investment. For the preceding years the profit would be greater per acre, taking the figures above quoted as the net return for oranges each year.

About one-third of the orange crop goes to Western points, and two-thirds to Eastern and Northeastern points, upon which
473 the increased rate of 10 cents per box, put the effect November 23d, 1890, has been paid.

In the season of 1890 and 1891 there was shipped over the S., F. & W. R'y, via Savannah and steamships, including what went by Merchants' and Union line to Baltimore, to Northeastern cities: From Jacksonville, 470,918 boxes; from Callahan, 82,254 boxes; and from Gainesville, 137,024 boxes; a total of 690,196 boxes. For the season 1891 and 1892 up to March 22d, 1892, the shipments by same lines to Northeastern cities, were from Jacksonville, 626,108 boxes; from Callahan, 160,922 boxes; from Gainesville 292,732 boxes; a total of 1,079,762 boxes, or an increase over the former year of 389,566 boxes.

Taking the weight of the standard box of oranges at 80 pounds, the increase of tonnage from oranges over the S., F. & W. R'y, in the season of 1891 and 1892 in excess of that of 1890 and 1891 to Northeastern cities, amounts to 1,558 cars loaded with 20,000 pounds each.

The orange crop is considered an uncertain one by orange-growers, on account of the liability of severe frosts injuring or killing the trees. Such frosts have occurred six or seven times since 1866, each time doing much damage both to young and bearing trees. There have been but one or two severe cold spells, notably in January, 1886, which were general and inflicted damage in all the orange-growing portion of the State. At times many trees have been killed by the cold, and at times the growing branches would be killed back, taking a year or two of fresh growth to place the tree in a bearing condition again. The orange groves are also liable to much damage by insects, especially the red spider. In spite of these drawbacks the orange crop is increasing year by year, as new trees are being planted, young ones come into bearing, and old ones reach full bearing. This increase from the season of
474 1884 and 1885 to 1885 and 1886 amounted to 50 per cent.; from 1885 and 1886 to 1886 and 1887 to 40 per cent.; from 1886 and 1887 to 1887 and 1888 about 20 per cent.; from 1887 and 1888 to 1888 and 1889 over 28 per cent.; from 1888 and 1889 to 1889 and 1890 over 10 per cent.; from 1889 and 1890 to 1890 and 1891 over 20 per cent., and from 1890 and 1891 to 1891 and 1892 nearly 35 per cent. There are no indications to show that the crop will grow less in the near future.

The amount of business for the defendants' line in handling the orange crop can be year by year quite accurately and safely estimated. It has been before shown that its line carried in the season of 1891 and 1892, up to March 22nd, to Savannah for Northeastern cities an increase of ⅓ more tonnage in oranges than during the season of 1890 and 1891. The orange rate of 40 cents per standard box via Savannah, Florida and Western railway, and the Ocean Steamship Co., from Florida base points to the cities of New York, Philadelphia and Boston, is divided, giving 18 cents to the S., F. & W. R'y, 18 cents to the Ocean Steamship Co., and 4 cents for the

transfer at Savannah, one cent of which goes to the S., F. & W. R'y Co. This road then receives 19 cents per box for 172 miles carriage, Jacksonville to Savannah, and terminal service. Calculating the standard box of oranges at 80 pounds, twenty-five would make one ton. The compensation then is $4.75 per ton, or a little more than 2.7 cents per ton per mile.

The division of the through rate over these lines was made originally when the route to Savannah via S., F. & W. R'y, was by Live Oak and Du Pont, and the distance was 259 miles. The distance from Savannah to New York via Ocean Steamship Co. line was computed at about 750 miles. One rail mile was considered equivalent to three water miles in making up the rate. After
475 the rate was established upon this basis the short line from Waycross to Jacksonville was built reducing the distance between Jacksonville and Savannah to 172 miles.

In recasting rates the Ocean Steamship still allowed the S., F. & W. R'y Co. 50 per cent of the through rate, as before, for reasons sufficient to the contracting parties. If this basis of fixing rates between land and water transportation companies is the correct one, the all-water route from Jacksonville to New York is equivalent to 300 miles.

The manager of the steamship line from Savannah estimates that compress cotton occupies about twice as many cubic feet per ton as a ton of oranges, but while cotton may be carried anywhere, the best ventilated part of the ship must be reserved for oranges. The same authority states that the revenue per ton to his line on oranges and cotton is about the same. The gross revenue from cotton is $5.00 or $6.00 per ton, out of which comes cost of compressing; for marine transportation, actual cost not stated. The gross revenue upon oranges is $4.25 per ton. The cost of handling oranges in New York is put at 75 cents per ton, of cotton 20 cents per ton. Lumber is carried still cheaper at $3.10 to $3.20 per ton.

The rate on cotton from Callahan, Jacksonville, Lake City and Live Oak, Florida, via the S., F. & W. R'y, and Ocean Steamship to New York by tariff in effec. September 12th, 1891, is only about 20 per cent. higher than the 40-cent rate on oranges.

The Savannah, Florida and Western railway "under its proportion of the old rate received 1.88 cents per ton per mile, and according to its report, (see Exhibit 'A') the estimated cost of carrying a ton of freight per mile in general over its line was, for the year ending June 30th, 1890, .965 of a cent. Deducting the latter from the former and there is left .915 of a cent as the excess of
476 the rate per ton per mile under the old rate over the estimated cost of its general transportation. Making the same deduction from the rate per ton per mile 2.7 cents received under the advanced rate, and there is left 1.745 cents as the excess of the present rate over the cost of transportation in general."

It is not necessary for the purpose of this inquiry to consider the cost of transporting freight per ton per mile, or the average receipts per ton per mile of the railroads making up the all-rail route from Savannah to New York, as they are not parties herein.

The division of through rates between the Savannah, Florida and Western railway and the Ocean Steamer Co. on oranges grew up naturally. Prior to 1881, oranges from east Florida were carried on steamers out of the St. John's river to Savannah and Charleston en route to New York. Most of them went by steamers from Charleston to New York, and the through rate was divided with the line from Charleston to Palatka, making 50 per cent. each. The Ocean Steamship Co. received a part of these oranges, and divided the through rate in the same way. The orange business rapidly increasing, the Savannah, Florida and Western railway, then the Atlantic & Gulf railroad, wanted some of it, and consented to the same equal division of the through rate.

Its route was then via Live Oak and Du Pont, 259 miles from Jacksonville to Savannah, and the division was a natural one, taking 3 water miles as the equivalent of one rail mile. When the Savannah, Florida and Western railway built the short line from Jacksonville via Waycross to Savannah, decreasing the distance between the two points to 172 miles, that company and the Ocean Steamship Co. in recasting rates again agreed to make an equal division of the through rate.

477 By what percentages the through rate is divided between the defendants can be of no importance to the complainant, unless such an unequal division was made as to render the entire rate an unreasonable one.

The orange freight business has grown up and attained proportions giving it importance in transportation circles in the last 15 or 20 years. From insignificance 15 years ago the orange crop of 1891 and 1892 had reached 3,500,000 standard boxes. To convey this number to market would require 11,666 cars carrying 300 boxes each. Taking the estimate of cars making up a train on No. 208, as 32, it would take 364 solid trains to move last season's crop. It only establishes the credit of the transportation lines for business intelligence and sagacity that they have furnished as rapidly as possible improved facilities for handling, forwarding and storing such a large, sure and yearly increasing volume of freight. Experience taught both shipper and carrier that the orange must have ventilation in transit, to protect it from decay, and so ventilated cars were built and put upon the rails. It was found that better results were obtained by having air spaces in packing at the tops of the cars and space for ventilation at the side doors of the cars, and that oranges went forward in better condition if packed not to exceed 300 boxes in a car. Continuous and accelerated speed was found important as thereby oxygen was furnished the orange in movement. Facilities for warm storage at terminals became necessary to protect the fruit from the cold weather in Northern cities. These increased facilities have been added as experience showed their necessity, and were mainly in use before the advance complained of. They were made as an inducement to the producer as the natural competition existing for the carrying trade would lead him to ship by those lines offering best ventilation, continuous and rapid transit and improved terminal facilities for storing.

478 The former rates were in effect from November 18th, 1886, to November 23d, 1890. It is claimed that it was originally established as a war rate, and continued in subsequent seasons by reason of the freeze of 1866, and the yellow fever of 1887 and 1888. This rate was not objected to during all this time as unremunerative, and when increased was not recommended by the traffic manager of the S., F. & W. R'y Co. The increase is claimed to be justified on account of large expenditures for increased facilities in handling the crop. The increased expense consists of an addition to the cost of ventilated freight cars over the common box car, which is used also in the transportation of vegetables and ordinary merchandise, the extra expense for service and speed in running train No. 208, and the cost of furnishing warm storage in New York. These increased expenses would have been necessary had the rate remained to enable the transportation companies to handle rapidly and to the satisfaction of the shippers such heavy freights. The rate cannot be determined and fixed with a view necessarily of affording a balance of profit to the producer and shipper. The carrier will doubtless endeavor to establish rates so as to encourage and foster the cultivation of the orange. It is his interest to do so. It is manifestly impossible, however, to so make rates as to at all times afford a profit to the shipper. An attempt to do this would cause rates to fluctuate with the markets, upon supply and demand.

The defendant companies' through line from base points in Florida to New York is made up taking the average of distances from the base points, Jacksonville, Callahan, Gainesville, Lake City and Live Oak to Savannah of about 200 miles rail and about 750 miles water transportation. There is a competitive all-water route from

479 Jacksonville to New York; and a competitive route from Jacksonville, Gainesville, Lake City and Live Oak to New York via Fernandina, partly rail and partly water transportation. One of these lines, the Clyde, seems to have been instrumental in the reduction of the rates in 1886 to 30 cents. Upon the basis named by one witness (Sorrel) in fixing rates this route to New York is equivalent to but little more than 300 miles of rail transportation. It is stated that oranges are delivered, on an average, as quickly by this route as by Ocean Steamship Company, or all rail. The strategic advantage occupied by this line should not operate to cause other lines to carry freights without proper compensation and profit. The actual cost of carrying oranges over the Savannah, Florida & Western railway can be arrived at from any evidence furnished. It is shown that the average receipts per ton per mile in 1890 was 1.378 cents per mile, and the average cost of carrying a ton per mile was .955 of a cent, a difference of .413 of a cent of the cost of transportation. Under the present rate on oranges this company receives about 2.7 cents per ton per mile, including terminal charges. If the cost of transportation a ton per mile remains the same as in 1890, this company receives 1.745 cents upon oranges over the average cost of transportation per ton per mile.

The orange crop does not supply a continuous freight throughout the year. Shipments begin in October and continue steadily

until April. For fully one-half of the year no important movement of this crop is made. Many extra cars are required during the shipping season, and the terminal facilities in New York are not all required for other freight the remaining part of the year. An additional burden is thereby imposed upon orange freights.

The fact that claims are interposed by shippers and paid
480 for loss, breakage and theft of oranges en route, is of no more significance than similar claims upon other classes of freights. It appears that oranges are shipped released and that no contract is made for delivery within a specified time at point of destination. Deterioration by delays in transportation are not considered. This loss falls upon the shipper.

The orange is a staple product in Florida, and its annual increase has been steady since it first assumed proportions of sufficient magnitude to engage the attention of transportation lines. The crop can be depended not to decrease in amount from year to year in the near future. It is handled easily and cheaply, packs closely, and is of sufficient weight to give fair tonnage to cars. Its transportation to the market is a regular daily business during the season, and can be calculated upon with certainty. The volume of orange freights offered to defendants is increasing each season, and the cost to the carrier is decreasing.

The rate which was formerly in effect was continued for four years, and was not complained of as unremunerative during that time.

The increase was much greater than required to compensate for increased facilities furnished by the carrier, admitting that these were made solely for the benefit of the shipper and not the intelligent and business-like improvements which a first-class railroad would supply as fast as found necessary to enable it to control a large and increasing proportion of these freights.

This increase was an advance of 33⅓ per cent. upon the rates previously in effect to New York, Philadelphia and Baltimore, and was made without previous notice to a large class of shippers extending over a wide territory whose interests were materially affected thereby. No such increase was made upon other products of similar volume and value. The decisions and findings
481 of the Interstate Commerce Commission have not been shown as erroneous by the proofs submitted before the master. If the court determines that said findings and decision were made by a legally constituted body, I recommend that the prayer of the petitioner be granted and the orders made by said commission be enforced.

The evidence on file, as to the value of the services of the solicitor for complainant consisting of the sworn statements of two of the leading solicitors in the district, indicate a proper compensation to be from $3,000 to $5,000. The weight of evidence is in favor of the latter sum, and I recommend an allowance of $5,000 as compensation for the services of said solicitor in this cause.

Respectfully submitted, JOSEPH H. DURKEE,
*Special Master.*

Jacksonville, Fla., September 16th, 1892.

482 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
THE SAVANNAH, FLORIDA AND WESTERN RAILWAY Co. and THE OCEAN STEAMSHIP COMPANY.

*Special Master's Fees and Expenses.*

| | |
|---|---|
| Taking testimony and report, with findings upon reference in above-entitled cause | $750 00 |
| To cash paid stenographing notes and typewriting | 120 50 |
| | $870 50 |

483 In the Circuit Court of the United States, Fifth Judicial Circuit, Northern District of Florida. In Chancery.

THE FLORIDA FRUIT EXCHANGE
*vs.*
THE SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY and THE OCEAN STEAMSHIP COMPANY OF SAVANNAH.

Exceptions taken by the defendant Savannah, Florida & Western Railway Company to the report of Joseph H. Durkee, special master in chancery, to whom this case was referred to take the testimony and report same, with his findings, by an order made herein on the 23d day of March, A. D. 1892, the report bearing date of the 16th day of September, 1892, and which was filed on the 17th day of September, 1892.

1st. For whereas there was but one question before the master, viz: whether the increased rates on oranges and lemons, put in effect on the 23d day of November, A. D. 1890, over the line of the Savannah, Florida & Western Railway Company from Jacksonville, Callahan, Gainesville, Lake City and Live Oak, basing points, to New York, Philadelphia and Boston, and by connecting lines to other Eastern cities, were unjust, unreasonable, excessive and unlawful, and in violation of the act to regulate commerce, who finds that said increase of rate was unjust, unreasonable and ex-
484 cessive; that said finding is erroneous, and petitioner cites and relies upon the entire testimony taken in this case to support same.

2nd. For that said master finds, as a conclusion of fact on the testimony introduced in this case, that all of the contentions of the defendant are established by the proof, viz: that the rate prior to the increased rate complained of in this suit was not remunerative, and that it was reduced originally as a war rate, and retained afterwards on account of the freeze, the yellow fever epidemic and the depression of business; that the facilities afforded by the defendant for transporting oranges and lemons are superior; that they run a special freight train for this purpose, called "a perishable freight

train;" that they give extra care and attention and terminal arrangements to handle these shipments at junctional points that are exceptional; that the cars are of superior character, having the most approved air brakes, couplers and ventilation; that they run at a greater speed; that there is extra expense for rebilling the freight; that many of the cars return empty, and that they go without being loaded to their maximum capacity; that the Florida orange is more perishable than other oranges grown in this country; that quick and continued transportation, by reason of the oxygen generated by motion, preserves the orange; that the expedition is worth at least ten per cent. over a *a* movement that would be two or three days slower; and then he errs in finding in conclusion, as a matter of fact, that the increased rate was unjust, unreasonable and excessive, and unlawful and in violation of the act to regulate commerce.

3d. For that the master, while finding that the orange is perishable, but will bear transportation "if packed when dry and carefully handled in packing," errs in the general conclusion which holds the transportation companies responsible for their being
485 "packed when dry and carefully handled in packing" by saying that the rate is unreasonable, and to this extent basing it upon fruit that will bear transportation.

4th. For that the master erred in finding that the rate was unreasonable in its increase, because his own finding of fact shows that the grower receives $11.00 per acre after deducting interest upon his investment, thereby demonstrating by his own finding that the increased rate was not unreasonable.

5th. For that the master erred in finding that the crop could be accurately counted upon for freightage during a stipulated period of the year, and defendant refers to the testimony of Geo. R. Fairbanks, Mr. Bishop and Rev. Lyman Phelps, and the master's own finding of fact, that the orange is liable to freezes and destruction by insects, in support thereof.

6th. For that the master while finding that the division of the through rate should not affect the reasonableness or unreasonableness of the rate as an entirety, is erroneously influenced by the division that is made of said rate between the carriers by basing in part his opinion upon the difference in miles allowed for sea voyage as against transportation by rail. See testimony of G. N. Sorrel, as to this exception.

7th. For that the master in basing his conclusion as to the reasonableness of the rate upon his computation that the defendant, The Savannah, Florida & Western Railway Company, receives 2.7 cents per ton per mile for hauling oranges against a much smaller percentage per ton on dead freights, erred by reason of the fact that the increased tonnage that can be carried in a car of dead freight over perishable freight is not considered, and the fact that the perishable cannot wait, but must move, while the dead freight is a waiting freight.

486 8th. For that the master erred in in part basing his finding that the rate was unreasonable on the estimated cost of .965

cents per ton per mile, by reason of the fact that the profit that a carrier may make on a perishable as against a dead freight cannot properly be a factor as to the reasonableness of the rate, and because there is no evidence to show what the cost per ton of carriage was at the time of this hearing. On the question of perishable and dead freights we cite the testimony of W. McCoy, N. S. Pennington, D. E. Maxwell and C. D. Owens.

9th. For that the master erred in refusing to take into consideration the claims for damages made on shipments of fruit as against similar losses upon dead freights.

10th. For that the master erred in finding that the increased rate was greater than the facilities furnished required. See testimony of Messrs. Huggins, McCoy, Sorrel, Haines, Stephens and Phelps.

11th. For that the master erred in basing his findings largely upon the fact that the increased rate was 33⅓ per cent. and was a larger increase than had been made at any one time upon any other character of shipment, instead of basing his findings upon the testimony, and defendant cites all of the testimony in this case to show the reasonableness of the rate and the unreasonableness of the master's findings.

12th. For that the master erred in placing the value of services of complainant's solicitor at five thousand dollars ($5,000) and defendant cites the testimony of Horatio Bisbee and A. W. Cockrell, and profert of the record in this case in support of said ground.

13th. For that the bill of costs charged by the master in this case *are* excessive and onerous and unreasonable. And defendant cites the number of sittings had, as shown in the record, and the
487 fact that the testimony was taken stenographically and charged for independently, in support of this ground.

JOHN E. HARTRIDGE,
*Sol. for S., F. & W. R'y.*

(Endorsed:) In the U. S. circuit court, northern district of Florida. Florida Fruit Exchange *vs.* Savannah, Florida & Western R'y Co. *et al.* Exceptions to master's report. Filed Oct. 15th, 1892. Philip Walter, clerk. John E. Hartridge, Jacksonville, Fla., sol. for S., F. & W. R'y Co.

488 In the Circuit Court of the United States in and for the Northern District of Florida.

THE FLORIDA FRUIT EXCHANGE
*vs.*
THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY and THE OCEAN STEAMSHIP COMPANY OF SAVANNAH.

And now comes the Ocean Steamship Company of Savannah, by Lawton & Cunningham, its solicitors, and adopts and endorses the exceptions filed in this case, on the 15th day of October, A. D. 1892, by the Savannah, Florida & Western Railway Company to the report of Joseph H. Durkee, master, filed in this case on the 17th day

of September, A. D. 1892, and states to the court here that the exceptions so endorsed and adopted are the exceptions of and for the Ocean Steamship Company of Savannah to said report, and asks that the same be considered and treated as if it had originally and separately assigned each of said several exceptions.

LAWTON & CUNNINGHAM,
*Solicitors for Ocean S. S. Co. of Sav.*

(Endorsed:) U. S. circuit court, northern district of Fla. The Florida Fruit Exchange *vs.* The Savannah, Florida & West-
489 ern Railway Company and The Ocean Steamship Company of Savannah. Adoption by the Ocean S. S. Co. of Savannah the exceptions to master's report of the S., F. & W. R'y Co. Filed October 17th, 1892. Philip Walter, clerk, by Jno. S. Driggs, dep. clerk. Lawton & Cunningham, solicitors for Ocean S. S. Co.

490 In the Circuit Court of the United States, Fifth Circuit, Northern District of Florida. In Chancery.

THE FLORIDA FRUIT EXCHANGE, Complainant,
*vs.*
THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY and THE OCEAN STEAMSHIP COMPANY OF SAVANNAH, Defendants.

The above-entitled cause having been heard and considered on the petition of said complainant, the answers of said defendants, the evidence therein, the report of the master therein, and the exceptions of said defendants to said report, and the arguments of counsel for the respective parties complainant and defendants, it is considered, ordered, adjudged and decreed that the said exceptions of complainants to said master's report be and the same are hereby overruled, and that the said report of the master filed herein be and the same is hereby sustained and confirmed. And further, that said defendants, The Savannah, Florida and Western Railway Company and The Ocean Steamship Company of Savannah, and each of them, and their and each of their agents, servants and employés, and every of them, be and are hereby enjoined and restrained from further violating, disobeying or in any way refusing to observe, obey, conform to and perform the requirements of the order of the
491 Interstate Commerce Commission of the United States, made, to wit, on the 29th day of October, A. D. 1892, requiring said defendants and each of them to forthwith cease and desist from charging or collecting for the transportation of oranges and lemons any greater sum than an addition of five cents per box to the rates in force prior to the advance on November 23d, 1890; and from refusing, failing or neglecting to receive, transport and deliver properly and promptly oranges and lemons, or either, of or from said complainant, The Florida Fruit Exchange, from the base points in Florida, to wit: Jacksonville, Callahan, Gainesville, Lake City and Live Oak, and any one of them, by and over said defendants' line or lines of transportation, railroad or railroads, steamship or steam-

ships, to New York city, in the State of New York, and other Eastern cities, or any of them, the points of destination of any such shipment or shipments, at and for rates of charges therefor not in excess of those designated as the maximum allowed by said order of said commission, to wit: an advance of five cents per standard Florida box on the rates in effect next preceding November 23d, 1890.

And further, that said defendants pay to complainant the costs of this suit, including the master's charges as reported by him, and pay to complainant or its solicitor of record the fee of the complainant's solicitor and counsel, Charles M. Cooper, of five thousand dollars, which is hereby allowed herein.

Done in open court this 30th day of November, 1892.

CHAS. SWAYNE,
*U. S. Judge.*

(Endorsed:) In circuit court of U. S., fifth circuit, in and for northern district of Florida. In chancery. Florida Fruit Ex-
492 change *vs.* S., F. & W. R. R. Co. *et al.* Filed this 30th day of November, A. D. 1892. Philip Walter, clerk. Decree on exceptions to master's report and final hearing.

493 In the Circuit Court of the United States, Fifth Circuit, Northern District of Florida. In Chancery.

THE FLORIDA FRUIT EXCHANGE, Complainant,
*vs.*
THE SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY, and THE OCEAN STEAMSHIP COMPANY OF SAVANNAH, Defendants.

The above-entitled cause having been heard and considered on the petition of said complainant, the answers of said defendants, the evidence therein, the report of the master therein, and the exceptions of said defendants to said report, and the arguments of counsel for the respective parties complainant and defendants. It is considered, ordered, adjudged and decreed that the said exceptions of complainants to said master's report be and the same are hereby overruled, and that the said report of the master filed herein be and the same is hereby sustained and confirmed. And further that said defendants, The Savannah, Florida and Western Railway Company and The Ocean Steamship Company of Savannah, and each of them, and their and each of their agents, servants and employés, and every of them, be and are hereby enjoined and restrained from further violating, disobeying or in any way refusing to ob-
494 serve, obey, conform to and perform, the requirements of the order of the Interstate Commerce Commission of the United States, made, to wit: on the 29th day of October, A. D. 1891, requiring said defendants and each of them to forthwith cease and desist from charging or collecting for the transportation of oranges and lemons any greater sum than an addition of five cents per box to the rate in force prior to the advance on November 23rd, 1890;

and from refusing, failing or neglecting to receive, transport and deliver properly and promptly oranges and lemons, or either, of or from said complainant, The Florida Fruit Exchange, from the base points in Florida, to wit: Jacksonville, Callahan, Gainesville, Lake City, and Live Oak, and any one of them, by and over said defendants' line or lines of transportation, railroad or railroads, steamship or steamships, to New York city, in the State of New York, and other Eastern cities, or any of them, the points of destination to any such shipment or shipments, at and for rates of charges therefor, not in excess of those designated as the maximum allowed by said order of said commission, to wit: an advance of five cents per standard Florida box on the rates in effect next preceding November 23rd, 1890.

And further that said defendants pay to complainant the costs of this suit, including the master's charges as reported by him, and pay to complainant or its solicitor of record the fee of the complainant's solicitor and counsel, Charles M. Cooper, of five thousand dollars, which is hereby allowed herein.

Done in open court this 30th day of November, 1892.

CHAS. SWAYNE,
*U. S. Judge.*

I, Philip Walter, clerk of the United States circuit court, 5th circuit, northern district of Florida, do hereby certify that
495 the foregoing is a true and correct copy of the original decree in the case of The Florida Fruit Exchange *vs.* The S., F. & W. R'y Co. and The Ocean Steamship Co. of Savannah, from the files and records of my office.

Witness my hand and the seal of this court, at the city of Jacksonville, in the district and circuit aforesaid, this 30th day of November, A. D. 1892, and of our Independence the 117th year.

PHILIP WALTER, *Clerk*,
[SEAL.] By JNO. S. DRIGGS, *Deputy Clerk.*

(Endorsed:) Received this injunction on the 30th day of November, A. D. 1892, and executed the same by delivering a true copy to John D. Sinclair, agent of S., F. & W. R'y Co. at Jacksonville, Fla., on Nov. 30, 1892, also by delivering a true copy to Bayard R. Price, soliciting agent of the Ocean Steamship Co. of Savannah, Ga., at Jacksonville, Fla., on Dec. 1, 1892. Edmund C. Weeks, U. S. marshal, by L. R. Bradley, dep. Filed Dec. 1, 1892. Philip Water, clerk.

496 (In duplicate.)

JACKSONVILLE, FLA., *Dec.* 27, 1892.

Received, Jacksonville, Florida, December 27th, 1892, from John E. Hartridge, solicitor of record for the Savannah, Florida & Western Railway Company, five thousand dollars ($5,000.00), being full amount of fee decreed to C. M. Cooper in the case of The Florida Fruit Exchange against The Savannah, Florida & Western Railway

Company and Ocean Steamship Company of Savannah in the United States circuit court for the northern district of Florida, by decree of said court dated November 30th, A. D. 1892.

C. M. COOPER.

(Endorsed:) Filed Dec. 27, 1892. Philip Walter, clerk.

(In duplicate.)

JACKSONVILLE, FLA., *Dec'b'r 27th*, 1892.

Received, Jacksonville, Florida, December 27th, 1892, from John E. Hartridge, solicitor of record for the Savannah, Florida & Western Railway Company, eight hundred and seventy and $\frac{50}{100}$ dollars ($870.50), being full amount of fee (including stenographer's fees) decreed to Joseph H. Durkee, special master, in the case of The Florida Fruit Exchange against The Savannah, Florida & Western Railway Company and Ocean Steamship Company of Savan-
497 nah in the United States circuit court for the northern district of Florida by decree of said court dated November 30th, A. D. 1892.

JOSEPH H. DURKEE,
*Special Master.*

(Endorsed:) Filed December 27th, 1892. Philip Walter, clerk, by John S. Driggs, dep. clerk.

498 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY and OCEAN STEAMSHIP COMPANY OF SAVANNAH.

The above-named Savannah, Florida & Western Railway Company feeling itself aggrieved by the decree rendered and entered in the above-entitles cause on the 30th day of November, A. D. 1892, doth enter its appeal from said decree to the circuit court of appeals for the fifth judicial circuit of the United States, and prays that this its appeal may be allowed, and that the transcript of the record and proceedings and papers upon which said decree was made, duly authenticated, may be sent to the circuit court of appeals for the fifth circuit of the United States.

JOHN E. HARTRIDGE,
*Solicitor for Savannah, Fla. & W. R'y Co.*

Now, on this 16th day of December, A. D. 1892, it is ordered that the appeal be allowed as prayed for.

CHAS. SWAYNE,
*U. S. Judge.*

(Endorsed:) In the U. S. circuit court, northern district of
499 Florida. Florida Fruit Exchange *vs.* Savannah, Florida & Western R'y Co. *et al.*, defendant. Entry of appeal. Filed Dec. 16, 1892. Philip Walter, clerk. John E. Hartridge, Jacksonville, Fla., sol. for S., F. & W. R'y Co.

500 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY and OCEAN STEAMSHIP COMPANY OF SAVANNAH.

The above-named Ocean Steamship Company of Savannah feeling itself aggrieved by the decree rendered and entered in the above entitled cause on the 30th day of November, A. D. 1892, doth enter its appeal from said decree to the circuit court of appeals for the fifth judicial circuit of the United States, and prays that this its appeal may be allowed, and that the transcript of the record and proceedings and papers upon which said decree was made, duly authenticated, may be sent to the circuit court of appeals for the fifth circuit of the United States.

LAWTON & CUNNINGHAM,
*Solicitors for Ocean S. S. Co. of Sav.*

Now on this 16th day of December, A. D. 1892, it is ordered that the appeal be allowed as prayed for.

CHAS. SWAYNE,
*U. S. Judge.*

501 (Endorsed:) U. S. circuit court, northern district of Fla. Florida Fruit Exchange *vs.* Savannah, Florida & Western Railway Co. *et al.* Entry of appeal. Filed Dec. 16th, 1892. Philip Walter, clerk. Lawton & Cunningham, sol's for Ocean S. S. Co. of Sav.

502 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY and OCEAN STEAMSHIP COMPANY OF SAVANNAH.

And now comes the defendant, The Savannah, Florida & Western Railroad Company, by John E. Hartridge, its solicitor, and applies to the court to grant a supersedeas in this case and to fix the amount of bond that shall operate to supersede the decree herein entered upon the 30th day of November, A. D. 1892.

And whereupon, upon argument of said application for a supersedeas bond before the Honorable Charles Swayne, district judge

sitting as a circuit judge, the said application was denied and refused. Whereupon the defendant excepted thereto. And upon the refusal of said judge to grant a supersedeas and fix a bond to operate as such, as to the whole of said decree, the said defendant did then and there, by its solicitor of record, apply to said court for a stay and supersedeas of that part of the order of said court which related to the payment of five thousand dollars ($5,000.00) as a solicitor's fee for Charles M. Cooper, solicitor for complainant.

503 And the same being considered the said judge did then and there overrule and deny said application, to which said ruling of the court the defendant did then and there except, and the exceptions before named were duly noted; and that the same may be made a matter of record the said judge has hereunto set his hand and affixed his seal, that the same may become and be a part of the record in this case.

16th December, 1892.

CHAS. SWAYNE,
*U. S. Judge.*

(Endorsed:) In the U. S. circuit court northern district of Florida. Florida Fruit Exchange *vs.* Savannah, Florida & Western R'y Co. *et al.*, defendant-. Order allowing appeal. Filed Dec. 16, 1892. Philip Walter, clerk. John E. Hartridge, Jacksonville, Fla., sol. for S., F. & W. R'y Co.

504 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY and OCEAN STEAMSHIP COMPANY OF SAVANNAH.

Now, on this 16th of December, A. D. 1892, comes the defendant, The Savannah, Florida & Western Railway Company, by John E. Hartridge, its solicitor, and says that in the record and proceedings in the above-entitled cause there is manifest error, to wit:

1st. That the circuit court erred in rendering and entering a decree and order on the 30th day of November, A. D. 1892, whereby it affirmed the master's report filed in this case on the 17th day of September, A. D. 1892, and wherein it overruled the exceptions of the defendant to the report of said master.

2nd. That said circuit court erred in the finding, as a matter of fact, that 35 cents per box for oranges from base points in Florida to Northeastern cities of the United States was a reasonable rate.

3rd. That said circuit court erred in allowing a fee of $5,000 to complainant's solicitor.

505 4th. That the interstate-commerce law, as far as same pretends to allow a fee to solicitor for complainant when complainant prevails, but no corresponding fee to defendant's solicitor when defendant prevails, is unconstitutional and void.

5th. That the court erred in allowing the fees charged by the master, said fees being excessive.

6th. That the court erred in refusing to allow the defendant its order of supersedeas and by this a bond that should operate as a supersedeas to the decree of the 30th day of November, A. D. 1892, or to any part thereof.

JOHN E. HARTRIDGE,
*Solicitor for Savannah, Fla. & W. R'y Co.*

(Endorsed:) In the U. S. circuit court, northern district of Florida. Florida Fruit Exchange *vs.* Savannah, Florida & Western R'y Co. *et al.*, defendant-. Assignment of errors. Filed Dec. 16, 1892. Philip Walter, clerk. John E. Hartridge, Jacksonville, Fla., sol. for S., F. & W. R'y Co.

506 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY and OCEAN STEAMSHIP COMPANY OF SAVANNAH.

Now, on this 16th day of December, A. D. 1892, comes the defendant, The Ocean Steamship Company of Savannah, by Lawton & Cunningham, its solicitors, and says that in the record and proceedings in the above-entitled cause there is manifest error, to wit:

1st. That the circuit court erred in rendering and entering a decree and order on the 30th day of November, A. D. 1892, whereby it affirmed the master's report filed in this case on the 17th day of September, A. D. 1892, and wherein it overruled the exceptions of the defendant to the report of said master.

2nd. That said circuit court erred in the finding, as a matter of fact, that 35 cents per box for oranges from base points in Florida to Northeastern cities of the United States was a reasonable rate.

3rd. That said court erred in allowing a fee of $5,000.00 to complainant's solicitor.

4th. That the interstate-commerce law, as far as same pretends to allow a fee to solicitor for complainant when complainant
507 prevails, but no corresponding fee to defendant's solicitor when defendant prevails, is unconstitutional and void.

5th. That the court erred in allowing the fees charged by the master, said fees being excessive.

6th. That the court erred in refusing to allow defendant its order of supersedeas, and by this a bond that should operate as a supersedeas to the decree of the 30th day of November, A. D. 1892, or to any part thereof.

LAWTON & CUNNINGHAM,
*Solicitors for Ocean S. S. Co. of Sav.*

(Endorsed:) U. S circuit court, northern district of Fla. Florida Fruit Exchange *vs.* Savannah, Florida & Western Railway Company *et al.* Assignment of errors. Filed Dec. 16th, 1892. Philip Walter, clerk. Lawton & Cunningham, solicitors for Ocean S. S. Co. of Sav.

508 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY and OCEAN STEAMSHIP COMPANY OF SAVANNAH.

And now comes the defendant, The Ocean Steamship Company of Savannah, by Lawton & Cunningham, its solicitors, and applies to the court to grant a supersedeas in this case and to fix the amount of bond that shall operate to supersede the decree herein entered upon the 30th day of November, A. D. 1892.

And whereupon, upon argument of said application for a supersedeas bond before the Honorable Charles Swayne, district judge sitting as a circuit judge, the said application was denied and refused. Whereupon the defendant excepted thereto. And upon the refusal of said judge to grant a supersedeas and fix a bond to operate as such, as to the whole of said decree, the said defendant did then and there, by its solicitor of record, apply to said court for a stay and supersedeas of that part of the order of said court which related to the payment of five thousand dollars ($5,000.00) as a solicitor's fee for Charles M. Cooper, solicitor for complainant. And
509 the same being considered the said judge did then and there overrule and deny said application, to which said ruling of the court the defendant did then and there except, and the exceptions before named were duly noted; and that the same may be made a matter of record the said judge has hereunto set his hand and affixed his seal, that the same may become and be a part of the record in this case.

16th December, 1892.

CHAS. SWAYNE,
*U. S. Judge.*

(Endorsed:) U. S. circuit court, northern district of Fla. Florida Fruit Exchange *vs.* Savannah, Florida and Western Railway Co. *et al.* Order allowing appeal. Filed Dec. 16, 1892. Philip Walter, clerk. Lawton & Cunningham, sol's for Ocean S. S. Co. of Sav.

510 (In duplicate.)

JACKSONVILLE, FLA., *Dec'b'r 27th*, 1892.

Received, Jacksonville, Florida, December 27th, 1892, from John E. Hartridge, solicitor of record for the Savannah, Florida & Western Railway Company, ninety dollars ($90.00), being full amount of

costs in the case of The Florida Fruit Exchange against the Savannah, Florida & Western Railway Company and Ocean Steamship Company of Savannah in the United States circuit court for the northern district of Florida.

PHILIP WALTER, *Clerk*,
By JOHN S. DRIGGS, *Dep. Clerk*.

(Endorsed:) Filed Dec. 27, 1892. Philip Walter, clerk.

511 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA AND WESTERN RAILWAY CO. and THE OCEAN STEAMSHIP COMPANY OF SAVANNAH.

This cause coming on to be further heard on the application of defendants for an enlargement of the time for filing the record in this case as above in the United States circuit court of appeals for the fifth judicial circuit of the United States, and it appearing to the court that due notice of this application has been given to Mr. C. M. Cooper, solicitor of record for the Florida Fruit Exchange; and it further appearing to the court from an examination of the record in this case that it is a physical impossibility to prepare and file the record in this cause as required by the rule of the court:

It is, therefore, ordered, adjudged and decreed that defendants have, and they are hereby allowed, until the first day of May, A. D. 1893, in which to file the record in this case with the clerk of the circuit court of appeals for the fifth circuit of the United States and to docket the case in said court; and the time for filing said record is enlarged till said date, viz: May 1st, 1893.

Done Jan'y 16th, 1893.

CHAS. SWAYNE,
*U. S. Judge.*

512 (Endorsed:) In the U. S. circuit court northern district of Florida. Florida Fruit Exchange *vs.* Savannah, Florida and Western Railway Company *et al.*, defendant-. Order for enlargement of time for filing record in court of appeals. Filed Jan. 16, 1893 Philip Walter, clerk. John E. Hartridge, Lawton & Cunningham, sol's for def'ts.

513 In the United States Circuit Court, Fifth Judicial Circuit, Northern District of Florida.

FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY and THE OCEAN STEAMSHIP COMPANY OF SAVANNAH.

This cause coming on to be further heard, on the application for an enlargement of the time for filing the record in this case as

above in the United States circuit court of appeals for the fifth judicial circuit of the United States, and it appearing to the court that there was a misunderstanding as to the making up on the record in this case between the solicitor of record for the defendants and the clerk of this court; and further, that the record is a large and voluminous one;

It is, therefore, ordered, adjudged and decreed that defendants have, and they are hereby allowed until the first Monday in July, A. D. 1893, in which to file the record in this case with the clerk of the circuit court of appeals for the fifth circuit of the United States and to docket the case in said court; and the time for filing said record is enlarged till said date, viz: July 1st, 1893.

Done April 28th, 1893.

CHAS. SWAYNE, *Judge.*

514 (Endorsed:) In the U. S. circuit court, northern district of Florida. Florida Fruit Exchange *vs.* Savannah, Florida & Western R'y Co. *et al.*, defendant-. Order enlarging time for filing of record. Filed Apr. 28, 1893. Philip Walter, clerk. John E. Hartridge, Lawton & Cunningham, Jacksonville, Fla., sol's for def'ts.

515 In the Circuit Court for the Fifth Judicial Circuit of the United States.

FLORIDA FRUIT EXCHANGE
*vs.*
SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY and OCEAN STEAMSHIP COMPANY OF SAVANNAH.

Know all men by these presents that we, W. M. Davidson and J. E. T. Bowden, are held and firmly bound unto the Florida Fruit Exchange in the sum of five hundred dollars ($500.00), for the payment whereof, well and truly to be made, we bind ourselves, our administrators, executors and assigns, jointly and severally, by these presents.

Witness our hands and seals this 22d day of May, A. D. 1893.

The condition of the above obligation is such that whereas the Savannah, Florida and Western Railway Company has entered and is about to prosecute an appeal to the circuit court of appeals for the fifth judicial circuit of the United States from the decree rendered on the 30th day of November, A. D. 1892, by the circuit court for the fifth judicial circuit of the United States, in and for the northern district of Florida, wherein the said Florida Fruit Exchange is complainant and the aforesaid Savannah, Florida
516 and Western Railway Company is one of the defendants:

Now if the said Savannah, Florida and Western Railway Co. shall enter and prosecute said appeal with effect and shall pay all costs in case the said decree shall be affirmed, then this obligation to be null and void, otherwise to remain in full force and virtue.

W. M. DAVIDSON. [MY SEAL.]
J. E. T. BOWDEN. [MY SEAL.]

Be it remembered, that on this 22d day of May, A. D. 1893, in the county of Duval and State of Florida, personally came before me W. M. Davidson, who made oath before me that he is a resident of Duval county, Florida; that he executed the above bond for the purposes therein expressed, and that he is worth the sum of two thousand dollars over and above all debts and liabilities.

W. M. DAVIDSON.

Sworn to and subscribed before me this 22nd day of May, A. D. 1893.

AUGUSTUS G. HARTRIDGE,
[SEAL.] *Notary Public, State of Florida.*

Be it remembered, that on this 22nd day of May, A. D. 1893, in the county of Duval and State of Florida, personally came before me J. E. T. Bowden, who made oath before me that he is a resident of Duval county, Florida; that he executed the above bond for the purposes therein expressed, and that he is worth the sum of
517 two thousand dollars over and above all debts and liabilities.

J. E. T. BOWDEN.

Sworn to and subscribed before me this 22nd day of May, A. D. 1893.

AUGUSTUS G. HARTRIDGE,
[SEAL.] *Notary Public, State of Florida.*

Approved and taken this 23rd day of May, 1893.

CHAS. SWAYNE, *Judge.*

This is to certify, that W. M. Davidson and J. E. T. Bowden, the obligors in the above bond, are amply responsible for the amount of said bond.

PHILIP WALTER, *Clerk.*

(Endorsed:) In the U. S. circuit court northern district of Florida. Florida Fruit Exch. *vs.* Savannah, Florida & Western R'y Co. *et al.* Appeal bond. Filed May 23rd, 1893. Philip Walter, clerk. John E. Hartridge, sol. for S., F. & W. R'y Co.

518 UNITED STATES OF AMERICA, *ss:*

To The Florida Fruit Exchange, a corporation existing and being under the laws of the State of Florida, Greeting:

Whereas, The Savannah, Florida & Western Railway Company, defendant in a certain cause in chancery in the circuit court of the United States in and for the northern district of Florida, in which The Florida Fruit Exchange, a corporation under the laws of the State of Florida, is complainant, and The Savannah, Florida & Western Railway Company *et al.* are defendants, the Savannah, Florida & Western Railway Company has entered its appeal from the final decree of said circuit court rendered in said cause:

Now, therefore, you are hereby cited and admonished to be and

appear at a circuit court of appeals of the United States for the fifth circuit, to be holden at New Orleans, on the 19th day of July, A. D. 1893, pursuant to an appeal prayed and allowed and filed in the clerk's office of the circuit court of the United States for the northern district of Florida, wherein The Savannah, Florida & Western Railway Company, a corporation under the laws of the States of Florida and Georgia, is appellant, and The Florida Fruit Exchange is appellee, to show cause, if any there be, why the decree in the said appeal mentioned should not be reversed.

519 Witness the Honorable Melville W. Fuller, Chief Justice of the United States, this 19th day of June, in the year of our Lord one thousand eight hundred and ninety-three.

CHAS. SWAYNE,
*Judge, Sitting as Circuit Judge of the United States in and for the Northern District of Florida.*

[SEAL.]
Attest: PHILIP WALTER, *Clerk.*

Received this citation this 19th day of June, A. D. 1893, and executed same by serving a true copy thereof on M. P. Turner, the secretary and treasurer of the corporation, The Florida Fruit Exchange, on the 21st day of June, 1893, at the general office of the Florida Fruit Exchange in the city of Jacksonville, Florida, and at the same — exhibited to him the original; the president and vice-president of the Florida Fruit Exchange both being absent from the State of Florida at the time of such service being made on the said M. P. Turner, secretary and treasurer of the Florida Fruit Exchange.

EDMUND C. WEEKS,
*U. S. Marshal,*
By LOREN H. GREEN.

Jacksonville, Fla., June 21st, 1893.

(Endorsed:) Filed June 19th, 1893. Philip Walter, clerk.

520 I, Philip Walter, clerk of the United States circuit court, fifth circuit, northern district of Florida, do hereby certify that the foregoing transcript, pages from 1 to 520, both inclusive, is a true copy of the record, assignment of errors and all proceedings in the case of The Savannah, Florida & Western Railway Company, appellants, *vs.* The Florida Fruit Exchange, appellees.

Witness my hand and the seal of this court, at the city of Jacksonville, in the district and circuit aforesaid, this [SEAL.] 26th day of August, A. D. 1892, and of our Independence the 117th year.

PHILIP WALTER, *Clerk.*

521 *Motion to Dismiss Appeal.*

(Filed November 20, 1893.)

In the U. S. Circuit Court of Appeals for the Fifth Circuit.

THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY, Appellant,
*v.*
THE FLORIDA FRUIT EXCHANGE, Appellee.

Now comes the appellee, by C. M. Cooper, its counsel, and moves the court to dismiss the appeal herein on the ground that this court has no jurisdiction thereof, as it "involves the construction or application of the Constitution of the United States" and "the constitutionality of (a) law of the United States * * * is drawn in question," one of the assignments of error being that the interstate-commerce act is unconstitutional, in that it allows complainant in proceeding to enforce decision of commission an attorney's & counsel's fee.

(Signed) C. M. COOPER,
*Counsel for Appellee.*

522 November Term, 1893.

MONDAY, *November* 20, 1893.

(Extract from Minutes.)

SAVANNAH, FLORIDA AND WESTERN RAILWAY CO., Appellants,
*v.*
THE FLORIDA FRUIT EXCHANGE, Appellee.

This cause came on to be heard this day on the merits and on the motion of the appellee to dismiss the appeal herein; and, after argument by Mr. Percy Roberts, for appellant, the further argument was continued until tomorrow.

*Withdrawal of 4th Assignment of Error.*

(Filed November 21, 1893.)

United States Circuit Court of Appeals for the Fifth Circuit.

SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY, Appellant,
*v.*
THE FLORIDA FRUIT EXCHANGE, Appellee.

And now comes the appellant, by John E. Hartridge, one of its solicitors of record, and withdraws and abandons in open court the fourth assignment of error in this case and which is in the words

and figures as follows: "4th. That the interstate-commerce
523 law, as far as same pretends to allow a fee to solicitor for complainant when complainant prevails, but no corresponding fee to defendant's solicitor when defendant prevails, is unconstitutional and void.

November 21st, 1893.

(Signed) JOHN E. HARTRIDGE,
*Sol. for Savannah, Florida & Western R'y Company, Appellant.*

*Agreement as to Mileage Distances.*

(Filed November 21, 1893.)

United States Circuit Court of Appeals for the Fifth Circuit.

SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY, Appellant,
*v.*
THE FLORIDA FRUIT EXCHANGE, Appellee.

The mileage distances from the several basing points other than Jacksonville, in Florida, to Savannah, Georgia, having been by error omitted from the record filed in this case, and the statistics of the Interstate Commerce — showing capitalization and earnings of Savannah, Florida and Western Railway Company, as made up
524 in 1889 and filed in this case below, having also been by mistake omitted from said record, it is agreed by the solicitor of record herein that said distances from said Florida basing points and said statistics of the Interstate Commerce Commission may be filed by counsel herein and, upon same being filed, stand and become a part of the record in this case.

November 21st, 1893.

(Signed) JOHN E. HARTRIDGE,
*Sol. for Appellant.*

(Signed) C. M. COOPER,
*Counsel for Appellee.*

November Term, 1893.

TUESDAY, *November* 21, 1893.

(Extract from Minutes.)

SAVANNAH, FLORIDA AND WESTERN RAILWAY Co., Appellant,
*v.*
THE FLORIDA FRUIT EXCHANGE, Appellee.

This cause came on again to be heard this day, whereupon the appellant filed a withdrawal of the 4th assignment of errors filed by it in this cause, and, after argument by Mr. C. M. Cooper for appellee and by Mr. John E. Hartridge for appellant, this cause and the motion to dismiss the appeal herein were submitted to the court.

525 *Statement of Distances.*

(Filed November 27, 1893.)

In the Circuit Court of Appeals of the United States for the Fifth Circuit.

THE SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY, Appellant,
*v.*
THE FLORIDA FRUIT EXCHANGE, Appellee.

Whereas a stipulation in writing was filed in this court as above on the 21st day of November, A. D. 1893, signed by John E Hartridge, as solicitor of record for the Savannah, Florida & Western Railway Company, and Charles M. Cooper, as solicitor of record for the Florida fruit exchange, agreeing, among other things, that the distances from the basing points other than Jacksonville mentioned in this case, viz., Callahan, Live Oak, Gainesville, and Lake City, to Savannah, and which were left out of the record, should be filed in this case as a part of the record:

Now, therefore, in pursuance thereof, it is agreed that the distances are as follows:

| | |
|---|---|
| Callahan to Savannah | 152 miles |
| Live Oak to Savannah | 180 miles |
| Gainesville to Savannah | 249 miles |
| Lake City to Savannah | 233 miles |

and that the same, as above stated, is hereby made a part of the record in this case.

(Signed) JOHN E. HARTRIDGE,
*Solicitor of Record for Appellant.*

(Signed) C. M. COOPER,
*Solicitor of Record for Appellee.*

526 November Term, 1893.

TUESDAY, *May* 29, 1894.

(Extract from Minutes.)

This cause came on to be heard on the transcript of the record from the circuit court of the United States for the northern district of Florida and was argued by counsel.

On consideration whereof it is now here ordered, adjudged, and decreed by this court that the decree of the said circuit court in this cause be, and the same is hereby, affirmed. It is further adjudged and decreed that the appellant, The Savannah, Florida and Western Railway Company, and the sureties on the appeal bond herein, W. M. Davidson and J. E. T. Bowden, be condemned to pay the costs of this cause in this court, for which execution may be issued out of said circuit court.

*Petition for Appeal.*

Filed June 20, 1894.

United States Circuit Court of Appeals for the Fifth Circuit, November Term, 1893.

SAVANNAH, FLORIDA & WESTERN RAILWAY Co., Appellants,
*vs.*
THE FLORIDA FRUIT EXCHANGE, Appellee. } No. 166.

527 The above-named appellant, The Savannah, Florida & Western Railway Company, conceiving itself aggrieved by the decree entered in this cause on the 29th day of May, 1894—

Appellant hereby appeals from said decree to the Supreme Court of the United States and it prays that its said appeal may be allowed, and that a transcript of the record and proceedings and papers upon which said decree was made, duly authenticated, may be sent to the Supreme Court of the United States.

(Signed) PERCY ROBERTS,
*Solicitor for the Above-named R'y C.*

New Orleans, June 20th, 1894.

*Assignment of Errors.*

(Filed June 20, 1894.)

United States Circuit Court of Appeals for the Fifth Circuit.

SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY, Appellant,
*vs.*
THE FLORIDA FRUIT EXCHANGE, Appellee. } No. 166. November Term, 1893.

528 On the 20th day of June, in the year of our Lord eighteen hundred and ninety-four, in the city of New Orleans and State of Louisiana, came The Savannah, Florida & Western Railway Company, appellant, by J. E. Hartridge and Percy Roberts, its solicitors, and says that in the decree rendered by said circuit court of appeals in the above-entitled cause on the 29th day of May, 1894, and in the record and proceedings in the said cause in said court there is manifest error in this, to wit:

I.

That said circuit court of appeals erred in rendering and entering a decree and order on the 29th day of May, 1894, whereby it affirmed the decree of the United States court of the northern district of Florida rendered on the 30th day of November, 1892.

II.

That said circuit court of appeals erred in finding as a matter of fact that 35 cents per box for oranges from base points in Florida to northeastern cities of the United States was a reasonable rate.

III.

That said circuit court of appeals erred in its application of the law to the facts as found in the record.

IV.

That said circuit court of appeals erred in not modifying the rates from basing points of different distances and making uniform on the basis of distances.

529 V.

That said circuit court of appeals erred in allowing the fees charged by the master, said fees being excessive.

VI.

That said circuit court of appeals erred in allowing the fees due the solicitor for the Florida fruit exchange, said fees being excessive and unwarranted.

Wherefore the above-named appellant, The Savannah, Florida & Western Railway Company, prays that said decree of the said United States circuit court of appeals for the fifth circuit, rendered on the 29th day of May, 1894, be reversed, and that said court be ordered to enter a decree reversing the said decree rendered by the said United States circuit court for the northern district of Florida rendered on the 30th day of November, 1892.

(Signed) J. E. HARTRIDGE,
PERCY ROBERTS,
*Solicitors for the Above-named Appellant,*
*The Savannah, Florida & Western R'y Co.*

530 *Appeal Bond.*

(Filed June 20, 1894.)

United States Circuit Court of Appeals for the Fifth Circuit.

SAVANNAH, FLORIDA AND WESTERN RAILWAY CO., Appellants,
*vs.*
THE FLORIDA FRUIT EXCHANGE, Appellee.
} No. 166. November Term, 1893.

Know all men by these presents that we, The Savannah, Florida & Western Railway Company, as principal, and Jno. W. Fairfax, of the State of Louisiana and city of New Orleans, surety, are held and firmly bound unto the above-named Florida Fruit Exchange in the sum of $1,000, to be paid to the said Florida Fruit Exchange; for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our successors, heirs, execu-

tors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated the 20th day of June, in the year of our Lord one thousand eight hundred and ninety-four.

Whereas the above-named Savannah, Florida & Western Railway Company has prosecuted and appeal to the Supreme Court of the United States to reverse the decree rendered in the above-entitled suit by the United States circuit court of appeals for the fifth circuit:

Now, therefore, the condition of this obligation is such that if the above-named Savannah, Florida & Western Railway Company shall prosecute said appeal to effect and answer all damages
531 and costs if they fail to make said appeal good, then this obligation shall be void; otherwise the same shall remain in full force and virtue.

SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY. [SEAL.]

(Signed) PERCY ROBERTS, [SEAL.]
*Its Solicitor and Attorney-in-fact.*

(Signed) J. W. FAIRFAX. [SEAL.]

Sealed and delivered and taken and acknowledged before me and approved by me this the 20th day of June, 1894, written.

(Signed) DON A. PARDEE,
*Circuit Judge.*

November Term, 1893.

WEDNESDAY, *June* 20, 1894.

*Order Granting Appeal.*

United States Circuit Court of Appeals for the Fifth Circuit.

SAVANNAH, FLORIDA & WESTERN RAILWAY Co., Appellants,
*v.*
THE FLORIDA FRUIT EXCHANGE, Appellee.
No. 166. November Term, 1893.

532 The above-named appellant, The Savannah, Florida & Western Railway Company, prays an appeal from the decree rendered by this court in the above-entitled cause on May 29th, 1894, to the Supreme Court of the United States; and said appellant having filed with the clerk of this court its petition for appeal, together with an assignment of errors and an appeal bond, which bond has been duly approved—

It is ordered, adjudged, and decreed by the court that said appeal be granted and allowed, and that a transcript of the record and proceedings and papers upon which said decree was made, duly authenticated, be sent to the Supreme Court of the United States on or before the 20th day of July, 1894.

New Orleans, La., June 20, 1894.

Allowed.

(Signed) DON A. PARDEE,
*Circuit Judge.*

533 United States Circuit Court of Appeals for the Fifth Circuit.

I, James M. McKee, clerk of the United States circuit court of appeals for the fifth circuit, do hereby certify that the foregoing 533 pages, numbered from *a* to 532, inclusive, contain a true copy of the record, pleas, process, proceedings, and all papers in the case of The Savannah, Florida and Western Railway Company, appellant, *v.* The Florida Fruit Exchange, appellee, No. 166, November term, 1893, as the same remains upon the files and records of said United States circuit court of appeals.

In testimony whereof I hereunto subscribe my name and affix the seal of said United States circuit court of appeals, at the city of New Orleans, this 30 day of June, A. D. 1894.

Seal United States Circuit Court of Appeals, Fifth Circuit.

JAMES M. McKEE,
*Clerk of the United States Circuit Court of Appeals for the Fifth Circuit.*

534 THE UNITED STATES OF AMERICA, *Fifth Judicial Circuit.*

The President of the United States to the Florida Fruit Exchange, Greeting:

You are hereby cited and admonished to be and appear before the Supreme Court of the United States, at Washington, D. C., within 30 days from the date hereof, pursuant to an appeal sued out of the United States circuit court of appeals for the fifth circuit in the cause wherein The Savannah, Florida and Western Railway Company is appellant in said court and you, the said Florida Fruit Exchange, is appellee, to show cause, if any there be, why the decree rendered against the said Savannah, Florida and Western Railway Company, as in said decree mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Don A. Pardee, United States circuit judge for the fifth judicial circuit, this 20th day of June, in the year of our Lord one thousand eight hundred and ninety-four.

DON A. PARDEE, *Judge.*

[Endorsed:] No. —. Savannah, Florida and Western Railway Co. vs. Florida Fruit Exchange. Citation. Marshal's return.

535 Copy received and service of within accepted.

C. M. COOPER,
*For Appellee.*

June 23rd, 1894.

Endorsed on cover: Case No. 15,642. U. S. circuit court of appeals, fifth circuit. Term No., 141. The Savannah, Florida & Western Railway Company, appellant, *vs.* The Florida Fruit Exchange. Filed July 20, 1894.

167-512

Office Supreme Court, U.S.
FILED
NOV 3 1896
JAMES H. MCKENNEY,
CLERK.

# United States Supreme Court.

SAVANNAH, FLORIDA & WESTERN RAILWAY COMPANY,
*Appellant,*

*vs.*

THE FLORIDA FRUIT EXCHANGE,
*Appellee.*

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

# BRIEF FOR APPELLANT.

R. G. ERWIN,
JOHN E. HARTRIDGE,
*Counsel for Appellant.*

C. G. Burgoyne, Walker and Centre Sts., N. Y.

# Supreme Court of the United States.

SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY,
Appellant,

vs.

THE FLORIDA FRUIT EXCHANGE,
Appellee.

## BRIEF FOR APPELLANT.

### Statement.

On the 14th day of December, 1891, The Florida Fruit Exchange filed its petition in the United States Circuit Court for the Northern District of Florida, alleging that the Savannah, Florida and Western Railway Company and the Ocean Steamship Company of Savannah were common carriers constituting a line under a common management for continuous carriage, partly by rail and partly by water, from Jacksonville, Callahan, Gainesville, Lake City and Live Oak, Florida, basing points, to New York and Philadelphia. That for each season since that of 1885–86 until the season of 1889–90 the rates from said basing points continued, with few changes, thirty cents per standard box to New York and Philadelphia and thirty-five cents to Boston, and each of said corporations composing said line received, by agreement, a certain proportion of said

rates. That on the 23d day of November, 1890, the rate was advanced ten cents per standard box.

That on the 30th of December, 1890, the Railroad Commission of Florida filed a complaint with the Interstate Commerce Commission against the Savannah, Florida and Western Railway Company and the Ocean Steamship Company of Savannah, the defendants, and others, alleging said rate to be illegal, unjust and unreasonable and injurious to shippers. That defendants answered said complaint, and evidence was taken before the Interstate Commission, and that, after hearing argument, the said commission, on the 27th of October, 1891, adjudged that said advance of ten cents should not have exceeded five cents per box, and that so far as it was in excess of that amount it was unreasonable and illegal, and that the defendants be notified to desist from charging any greater sum than an addition of five cents per box on the rates existing prior to November 23d, 1890, for transportation of oranges and lemons.

That the defendants wholly refused to obey said order, and continued to collect the ten cents advance.

That petitioner is engaged in shipping and selling oranges and interested in the observance of the commission's order, and that defendants have refused to transport oranges and lemons for petitioner at the rate fixed by the commission, and exacts the advance made on November 25th, 1890, which it charges is excessive, unreasonable, contrary to law and in disobedience of the order of said Interstate Commission, and prayed that defendants be enjoined from violating the order of the Interstate Commission, and that defendants be ordered to pay petitioner's costs and counsel fees, and that defendants be directed to answer by a day to be designated by this Court. Attached to the petition is Exhibit A, containing the proceedings before the Interstate Commission.

## Order to Answer.

On the day of the filing of the petition the Court made an order directing the defendants to file written answers by 21st day of December ensuing. The time for answering having been extended, the defendant the Savannah, Florida and Western Ry. Co., pursuant thereto, on the 8th day of March, 1892, filed its answer.

## Answer.

The answer admitted the corporate existence of the petitioner and of the defendants, and that they operated a line of carriage as stated in the petition, and that the rate had been thirty cents to New York and thirty-five to Boston, and that on or about the date named in the petition that the rate had been advanced ten cents per box; and admitted that the Railroad Commissioners of Florida did file a complaint with the Interstate Commission, but denied that the averments of said petition were true; that defendant answered said complaint; that evidence was taken thereon and that briefs were filed with the commission by complainants and defendants; but denied that the Interstate Commission, as organized under the Act to Regulate Commerce, as amended, rendered a decision and made an order on the complaint, while admitting that the so-called orders and decisions appearing in Exhibit "A" are true copies of originals. That defendants did continue to charge the advanced rate, but denies that the rate was excessive. Admitted that the petitioner was a larger shipper of oranges and interested in rates, and that it tendered payment in advance for the transportation of oranges at the old rate, and that same was refused and the advanced rate exacted, but expressly denied that the advanced rates are unjust, unreasonable, excessive and contrary to law.

That Hon. Thomas M. Cooley, Hon. Martin A. Knapp and Hon. Walter Bragg, constituting a quorum of the Interstate Commission, heard said complaint of the Railroad Commission of Florida on March 30th and 31st, 1891, and heard the testimony of the witnesses given orally; that before any determination was had the Hon. Thomas M. Cooley resigned, his resignation taking effect on 4th September, 1891, and that Hon. Walter M. Bragg departed this life 21st August, 1891; that said so-called decision of the Interstate Commerce Commission was dated 29th October, 1891, and is therefore not the lawful order of the commission created by Act of Congress and the amendments thereto, and that said alleged order is not binding.

That on 22d December, 1891, defendants filed with the Interstate Commission its application for a rehearing, and that the same state of facts as to the personnel of said commission before stated existed; and that in said application for a rehearing the defendants requested to be orally heard, which was denied, and that said denial was in violation of the Act of Congress creating said commission. That the petition does not disclose the vote and official act of each of the members of the commission, and prayed leave to refer to the order of the commission for same, and averred that the so-called order of the commission was not lawful; that said Interstate Commission did not possess the powers of a court, and that its decrees and orders did not possess the binding force and efficacy of decrees of a court; that the Act of Congress never designed clothing the commission with the power of a court, and that it has no power beyond investigating and reporting findings of fact, and that such findings are not final or an adjudication of the questions involved, but leave the matters at issue to be investigated and determined by the courts according to the law and rules of practice, and avers that the findings of the said commission were erroneous, contrary to the evidence and against the evidence heard by the commission.

The answer further averred that the rates in effect prior to November 23, 1890, did not afford a just and reasonable compensation, and that the rates put into effect on November 23d, 1890, are just and reasonable, and denies each and every allegation in the petition which alleges that the advanced rate was unjust, unreasonable or excessive; and that, if the findings of the commission are legal and binding, the Court can only investigate the matters set forth in the petition in such a way as it shall deem best.

And aver that the findings of the commission, when rendered by the majority, are but *prima facie* evidence, and that the Court is not confined to a re-examination of the case as heard by the commission, and insisted upon the right of the defendants to introduce testimony to show that the advanced rate was just and reasonable, and denies that complainant is entitled to any relief.

## Referred.

On the 23d day of March, 1892, the case was referred to Joseph H. Durkee as Special Master to take testimony and report same with his findings to the Court.

After taking the testimony and hearing argument the Master, on the 17th September, 1892, filed his report and findings to the effect that the increased rate complained of was greater than required, and that the decisions and findings of the commission were not erroneous, and recommended that a fee of five thousand dollars be allowed petitioner's solicitor.

## Exceptions to Report.

On 15th October, 1892, the Savannah, Florida and Western Railway Company filed exceptions to the Master's report (see pp. 266–7 of Record).

The exceptions coming on to be argued, the same were overruled, and on the 30th day of November, 1892, a final decree was rendered confirming the Mas-

ter's report filed herein and enjoining the Savannah, Florida and Western Railway Company and the Ocean Steamship Company of Savannah from in any way refusing to observe and perform the order of the Interstate Commerce Commission of the United States, requiring the Savannah, Florida and Western Railway Company and the Ocean Steamship Company of Savannah to forthwith cease and desist from charging or collecting, for the transportation of oranges and lemons, any greater sum than an addition of five cents per box to the rates in force prior to the advance in November, 1890, and enjoining them from refusing to receive and transport oranges and lemons for the Florida Fruit Exchange over their lines of transportation at and for rates not exceeding the minimum fixed by said order of the Interstate Commerce Commission; and further directing the defendants to pay the Master's charges and to pay the solicitor of the Florida Fruit Exchange a fee of five thousand dollars allowed by the Court.

## Appeal Prayed.

On the 16th of December, 1892, an appeal was duly prayed and allowed from the decree dated 30th November, 1892, to the Circuit Court of Appeals for the Fifth Circuit of the United States.

On the same day an application was made to the Court to grant a supersedeas and to fix the amount of a bond to operate to supersede the decree of the 30th of November, 1892, or at least so much thereof as required the payment of a solicitor's fee and the Master's costs, which was denied.

This appeal was heard in the United States Circuit Court of Appeals for the Fifth Circuit at the November Term, 1893. A decree was rendered on the 29th of May, 1894, affirming the decree of the Circuit Court.

The Court did not file the opinion.

From this decree the appellant appealed, and the case is in this Court on that appeal (Record, p. 285).

## Assignment of Errors.

I.

That said Circuit Court of Appeals erred in rendering and entering a decree and order on the 29th day of May, 1894, whereby it affirmed the decree of the United States Court of the Northern District of Florida rendered on the 30th day of November, 1892.

II.

That said Circuit Court of Appeals erred in finding as a matter of fact that thirty-five cents per box for oranges from base points in Florida to Northeastern cities of the United States was a reasonable rate.

III.

That said Circuit Court of Appeals erred in its application of the law to the facts as found in the record.

IV.

That said Circuit Court of Appeals erred in not modifying the rates from basing points of different distances and making uniform on the basis of distances.

V.

That said Circuit Court of Appeals erred in allowing the fees charged by the Master, said fees being excessive.

VI.

That said Circuit Court of Appeals erred in allowing the fees due the solicitor for the Florida Fruit Exchange, said fees being excessive and unwarranted.

## Argument.

The assignments of error and the specifications of exceptions thereunder to the Master's report may be epitomized under contentions, as follows:

1st. That the rates on oranges and lemons put in effect on the 23d of November, 1890, over the line of the Savannah, Florida and Western Railway Company and the Ocean Steamship Company of Savannah are just, reasonable and lawful.

2d. That the Court erred in allowing a fee of five thousand dollars to complainant's solicitor, the sum being excessive.

3d. That the Master's fees allowed are excessive.

4th. That the defendant should have been granted a supersedeas.

5th. That the order sought to be enforced is not the order of the Interstate Commission as created by Congress.

6th. The Interstate Commerce Commission has no power to make rates.

## Reasonableness of Rate.

The question of reasonableness of rates "involves so "many considerations and is affected by so many "conditions and circumstances which may seem at "first blush to be foreign, that it is quite impossible "to deal with it on mathematical principles "or on any principles whatever, without a conscious- "ness that no conclusion that can be reached can by "demonstration be shown to be absolutely correct.

" Some of the difficulties in the way have been indi-
" cated in what has been said on classification ; and it
" has been shown that to take each class of freight by
" itself and measure the reasonableness of charges by
" reference to the cost of transporting that particular
" class, though it might seem abstractly just, would
" neither be practicable for the carriers nor consistent
" with the public interest. The public interest is best
" served when the rates are so apportioned as to en-
" courage the largest practicable exchange of products
" between different sections of our country and with
" foreign countries ; and this can only be done by mak-
" ing value an important consideration, and by placing
" on the higher class of freight some portion of the
" burden that, on a relatively equal apportionment, if
" service alone were considered, would fall upon those
" of less value. With this method of arranging tariffs
" little fault is found, and perhaps none at all by per-
" sons who consider the subject from the standpoint of
" public interest."

Report of the Interstate Commerce Commission (1887), 312-3, Vol. 1 (I. C. C.), 313.

" Classification is the foundation of all rate making.
" It was very early in the history of railroads perceived
" that if these agencies of commerce were to accomplish
" the greatest practicable good the charges for the
" transportation of different articles of freight could not
" be apportioned among such articles by reference to
" the cost of transporting them severally ; for this, if
" the apportionment of costs were possible, would
" restrict in very narrow limits the commerce in articles
" whose bulk or weight was large as compared with their
" value."

*Ibid.*, 303, 1 Vol., I. C. C.

On the system of apportioning the charges strictly to the cost, much of the commerce of the country would have no existence at all, for

the article at the place of delivery would not be worth the purchase price with the transportation added. There would be no commerce in such an article, for it would not bear the expense of carriage. And so the rates for carrying articles which within small bulk concentrate large values would on that system be absurdly low. It was therefore found to be unjust to apportion the whole cost of service among all the articles transported upon a basis that should consider the relative value of the service rather than the relative cost of the carriage. "Such method of ap-
"portionment would be best for the country, because
"it would enlarge commerce and extend communica-
"tion; it would be best for the railroads because it
"would build up a large business, and it would not be
"unjust to property owners, who would thus be made
"to pay in some proportion to benefit received.
"Such a system of rate making would in principle ap-
"proximate taxation; the value of the article carried
"being the most important element in determining
"what shall be paid upon it."

*Ibid.*, 303, 1st Vol., I. C. C.

In determining what is a reasonable rate for a particular commodity, the rates charged on the same commodity by other roads situated as nearly similar as may be, the diversities between the railroad in question and such other railroad, the relative amount of through and local business, the proportion borne by the commodity in question to the rest of the local traffic, the market value of the commodity and its gradual reduction, and all other questions affecting the traffic and relating to the other considerations entering into the "charges of the carrier."

Evans *et al.* vs. The Or. Ry. & Nav. Co., 1 I. C. Rep., 325.

It will be apparent to the Court from the opinions just cited that the reasons and principles gov-

erning the law of rate making, so far as they relate to reasonableness or unreasonableness, are manifold and important, and affect different interests, as existing facts and conditions may direct and mould. To the end that a clear conception may be had of the application of the testimony in this case, and to give emphasis to appellant's contention that the rate complained of is a reasonable one, we cite the Court to the different principles enunciated influencing rates, and refer under each principle to the pages of the record showing the evidence supporting appellant's contention and demonstrating that we come within the rule asserted.

## Division of Through Rates.

Shippers cannot justly demand that in all cases the rate on local shipments shall not be higher than the particular division of the through rate from distant points to the point of delivery.

Rend vs. C.& N. W. Ry. Co., 2 I. C. C., 540.

The division of the through rate cannot in any way affect the reasonableness of the rate.

It is not apparent how the division of the earnings of two roads can concern or affect the public, so long as the rate of transportation on them is reasonable.

*Ex parte* Koehler, 23d Fed. Rep., 534.

## Character of Commodity.

The character of the commodity is one of the elements necessary to the determination of what is a reasonable rate.

Imperial Coal Co. *et al.* vs. P. & L. E. E. R. R. Co., 2 I. C. C., 618.

The commodity under consideration is an orange of the tenderest and most juicy type, not standing ship-

ment as either the California or the Mediterranean orange, a commodity in which speed is the desideratum in order to get it to market in a salable condition. That it is a perishable fruit is true, though it may not be so to the same degree as the strawberry. This does not, however, detract from the fact that it is a perishable product and one for which the carrier should have more money for transporting.

Record, pages 71, 81, 82, 83, 84, 85, 86.

In comparison with other oranges, the Florida orange is more tender, rich and juicy.

## Value.

In determining the reasonableness of a rate the market value of the commodity in question is a fact, among other things, to be considered.

Evans vs. Or. Ry. & Nav. Co., 1 I. C. C., 325.
James *et al.* vs. T., V. & G. Ry. Co., 3 I. C. C., 225.
Harvard Co. vs. Penn. Co., 4 I. C. C., 212 (3 I. C., 257).
Warner vs. N. Y. Cen. & H. R. R. R. Co., 4 I. C. C., 32 (3 I. C., 74).
Delaware State Grange, etc., vs. N. Y., P. & N. R. R. Co., 4 I. C. C., 588 (3 I. C., 554).
N. O. Cot. Ex. vs. Ill. Cen. R. R. Co., 3 I. C. C., 534.
Beaver *et al.* vs. P., C. & St. L. Ry. Co., 4 I. C. C., 733 (3 I. C., 564).

The article in question is very valuable, bringing higher prices in comparison to the amount of acreage required for production than almost any other commodity.

Record, pages 149, 218, 350, 384, 386, 445 and 449.

## Risk.

In determining what is a reasonable rate, the amount of risk incurred by carrier during the transportation is, among other facts, to be considered.

N. O. Cot. Ex. vs. Ill. Cen. R. R. Co., 3 I. C. C., 534.

The risk incurred is very great by reason of the perishable character of the shipment, as is shown by the number of claims paid by carriers.

Record, pages 75 *et seq.*, 239 *et seq.*

Gen. Sorrel, page 234 of the record, says: "I am in general aware that claims are not infrequently made for damages to fruit alleged to be deteriorated in transit by delay.

"One of our ships while engaged in an act of humanity in towing a vessel in distress into Norfolk, causing her voyage to New York to be about forty-eight hours longer than it would otherwise have been, showed very fully the importance attached by shippers to rapid transportation. As the result of this service to the distressed vessel, claims were made by some of the consignees of oranges on the ground that they were damaged by the short delay."

The railroad companies put up their freight against the labor of the producer in orange shipments. If the shipment does not pay the freight by reason of any disaster that may come to it, the shipper is not asked to cover same (Record, p. 88). This also applies to the Ocean Steamship Company (Record, pp. 87, 88, 89).

## Cost of Service.

The expense to carrier in the transportation of freight and passengers is a fact to be considered in determining what is a reasonable rate.

Boston Chamber of Commerce vs. L. S. & M. S. R. R. Co., 1 I. C. C., 436.
Rice *et al.* vs. W. N. Y. & P. R. R. Co., 2 I. C. C., 389.
Business Men's Assoc., etc., vs. C. & N. W. Ry., 2 I. C. C., 73.
Thurber vs. N. Y. Cen. & H. R. R. R. Co., 3 I. C. C., 473.
Boston Fruit & Produce Exch. vs. N. Y. & N. E. R. R. R. Co., 4 I. C. C., 664 (3 I. C., 493).
N. Y. Bd. of T. vs. Penn. R. R. Co., 4 I. C. C., 447 (3 I. C., 417).

The cost to the carrier of this service is very largely increased because of the facilities given. It is increased in the character and number of employees engaged, the extra wear and tear upon the rail, the consumption of fuel, the delaying of other trains to give right of way to the orange trains, the inability to haul tonnage capacity by reason of the nature of the product and the necessity for space in packing, the greater depot facilities, the more careful handling, the better and more expensive class of cars with improved brakes and couplers, assortment and classification of oranges to different points, drilling of cars so as to put those containing freight for different points in the order of their arrival for quick delivery, inability to haul the usual number of cars by reason of the speed required, the payment of claims for damages, payment for reshipment when it is necessary on account of missing connection with ship, loading fruit for different cities in separate cars and hauling them to the piers of the several steamers, and many other items that the testimony discloses in connection with those mentioned.

Record, pages 56 *et seq.*, 123, 136 *et seq.*

## Operating Expenses.

The fact that operating expenses absorb nearly the entire earnings is to be considered in determining what is a reasonable rate, but it cannot justify excessive rates.

N. O. Cotton Ex. vs. C., N. O. & T. Pac. Ry. Co., 2 I. C. C., 375.
Evans vs. Or. Ry. & Nav. Co., 1 I. C. C., 325.

It is shown that the entire earnings other than a small interest charge on the bonded indebtedness are absorbed.

Record, page 122.

## Storage Capacity.

In determining what is a reasonable rate on a given commodity the amount of storage capacity at initial and terminal points is a fact to be considered.

Boston Chamber of Com. vs. L. S. & M. S. Ry. Co., 1 I. C. C., 436.

Large and expensive accommodations are given for storage purposes and for enabling dealers to sell the fruit directly from the terminals, and facilities given for delivering fruit from the carrier to the steamships.

Record, pages 123-4, 136-7-8, 234.

## Special Train Service.

The facts that the shipment of a given commodity demands a special train, running at a particular hour and on fast time, and that such train must return empty, are all necessary to be considered in determining what, in such case, is a reasonable rate.

Boston Fruit & Produce Exch. vs. N. Y. & N. E. R. R. Co., 4 I. C. C., 664 (3 I. C., 493).

A special train service is given this commodity, on fast time, with right of way over all other trains and authorized to sidetrack other trains and abandon all schedules and to run ahead of schedules if necessary to make the Ocean Steamship connection at Savannah.

Record, pages 57–112.

These special trains are instructed to carry no other freight.

This is the highest class of service.

Train dispatchers are directed to give trains moving oranges preference. The perishable is never left for other freight.

Record, page 50.

## Speed.

Speed is the most desirable element, says Dr. Phelps, one of the most intelligent men ever engaged in orange culture and one of the largest growers. A movement of five days to New York is of infinite advantage over ordinary movement, and is worth twenty per cent. more to the producer (Record, p. 82). The fact that a fast train is continually on the move, creating oxygen, is very beneficial, as a delay of three hours by sidetracking would be more injurious than a continuous movement of forty-eight hours.

Record, pages 81, 82, 83.

The time of movement is ordinarily five days. Seven or eight days are the exceptions.

Record, pages 72, 73, *et seq.*

On this question General Sorrell, manager of the steamship lines, on page 234 of the record, says:

"The demands of the orange men, and especially of the commission houses in New York, with whom I am constantly in contact, are unceasing for increased

rapidity in the transportation of the oranges; and the pressure for improved service in the handling and delivery of Florida oranges has been steady and uninterrupted."

## Volume of Business.

In considering the question of what is a reasonable rate, the volume of business is a fact, among other things, to be considered.

Boston Cham. of Com. vs. L. S. & M. S. Ry. Co., 1 I. C. C., 436.
Rice *et al.* vs. W. N. Y. & P. R. R. Co., 2 I. C. C., 389.
Warner vs. N. Y. Cen. & H. R. R. R. Co., 4 I. C. C. C., 32 (3 I. C., 74).

The entire testimony of all persons who have given evidence in regard to the orange say that the crop fluctuates and is uncertain in quantity. Not only is this so as to the volume, but in shipments the carrier cannot rely with any degree of certainty upon continuous shipments. They are spasmodic—large one week and not a carload the ensuing week. We cite no particular page of the record on this proposition, as the concurrence of expression upon the part of all witnesses examined on the subject of orange growing is in this line.

## Population Along the Line.

In determining what is a reasonable rate the density of population along the line is a factor.

Business Men's Assoc. of Minn. vs. C. & N. W. Ry. Co., 2 I. C. C., 73.

The population is extremely small along the line of road (Record, pp. 130, 136). It is shown by the evidence that the local traffic is exceedingly light. The road could not pay expenses unless allowed considerable portion of the through rate (Record, p. 236).

## Amount of Through and Local Business.

In determining what is a reasonable rate for a particular commodity, the Court will consider, among other facts, the relative amount of through and local business.

Evans vs. O. Ry. & Nav. Co., 1 I. C. C., 325.

The local business of the Savannah, Florida and Western Railway Company is extremely small. It has practically no local business.

Record, pages 131–236.

## Empty Cars.

Empty cars and the want of return loads is also a fact to be considered.

James *et al.* vs. E. Tenn., Va. & Ga. Ry. Co., 3 I. C. C., 225.
Boston Fruit & Prod. Ex. vs. N. Y. Cen. & H. R. R. R. Co., 4 I. C. C. (3 I. C., 493).
Delaware State Grange, etc., vs. N. Y., P. & N. R. R. Co., 4 I. C. C., 588 (3 I. C., 554).

In this freight movement the carrier is not only compelled to bring down a great many empty cars in the beginning of the season to move the crop, but is compelled to haul empties after they have been unloaded at destination.

Record, pages 68–70, 88.

## Return Loads.

The fact that carriers have, or have not, return loads, is to be considered in determining what is a reasonable commodity rate.

*In re* Tank and Barrel Rates on Oil, 2 I. C. C., 365.
James vs. E. T., V. & G. R. R. Co., 3 I. C. C., 225.

The evidence shows that it is impossible to count upon return loads ; that a return load is the exception and not the rule.

Record, pages 66, 89.

## Water Competition.

Competition by water, when such carriers are not subject to the provisions of the act, and when such competition is of controlling force and important in amount, may justify a greater charge for a shorter distance over the same line, in the same direction, within the meaning of the fourth section of the act.

*In re* L. & N. R. R. Co., 1 I. C. C., 31.
King *et al.* vs. N. Y., N. H. & H. R. R. R. Co., 4 I. C. C., 251 (3 I. C., 272).
N. O. Cot. Ex. vs. Ill. Cen. R. R. Co., 3 I. C. C., 534.
Lehmann *et al.* vs. Sou. Pac. R. R. Co., 4 I. C. C., 1 (3 I. C. C., 80).

Railways which are compelled to meet the competition of the great lakes may, in some instances, find therein the justification for a greater charge for a shorter distance over the same line, in the same direction, within the meaning of the fourth section of the act.

Bus. Men's Association of Minn. vs. C., St. P., M. & O. Ry. Co., 2 I. C. C., 52.

See

Bates *et al.* vs. Penn. R. R. Co., 3 I. C. C., 435.
Bates *et al.* vs. Penn. R. R. Co., 4 I. C. C., 281 (3 I. C., 296).

Competition with water lines is a fact to be considered in the determination of what is a reasonable rate.

N. O. Cotton Ex. vs. Ill. Cen. R. R. Co. *et al.*, 3 I. C. C., 534.
Rice vs. A. T. & S. F. R. R. Co. *et al.*, 4 I. C. C., 228 (3 I. C. C., 263).

Competition with other carriers by rail is also a fact to be considered.

N. O. Cotton Ex., etc., vs. Ill. Cen. R. R. Co., 3 I. C. C., 534.

The line complained of here has water competition the entire way from Jacksonville to New York, and also from Fernandina, Florida, to New York, and all rail competition.

This being so, the shipper is not compelled to send by the line complained of; but, as is shown in evidence, there is a water line from Jacksonville taking oranges for 30 cents per box, yet the shipper prefers the line complained of, exhibiting the fact that it must give a better service.

## Profitable Rates Not Conclusive.

Proof that certain rates are very profitable to the road is not conclusive on the question of the reasonableness of such rate.

Howell vs. N. Y., L. E. & W. R. R. Co., 2 I. C. C., 272.

It is not claimed by the Florida Fruit Exchange that the rate is particularly profitable to the road. The utmost claimed in this respect is that it pays five per cent. upon its bonded indebtedness. It is shown not to be a dividend-paying road.

Record, page 122.

If appellee's contention is true, five per cent. is a very small amount to earn and is allowable under the law.

"Every railroad company ought, when it is "practicable, to so arrange the tariffs that "the burden of freights shall be proportional "on all its lines and with a view to revenue "sufficient to meet all the items of current "expenses, including the cost of keeping up the road,

" building and equipment, and of returning a *fair profit* " to the owners."

*In re* L. & N. R. R. Co., 1 I. C. Rep., 79.

Assuredly, a rate is not unreasonable that only provides sufficient revenue to pay its bonded interest after paying expenses of operation and maintenance.

## Comparison of Rates.

The testimony of Mr. Pennington and Mr. Maxwell (Record, pp. 90 and 91) shows that the Florida Railway and Navigation Company, now the Florida Central and Peninsular Railroad Company, formerly received twenty-five cents for the haul from Citra to Callahan, a distance of 84 miles, but afterwards were allowed by the State Commission 15 cents for this haul of 84 miles, though they only charged 14 cents, by reason of the fact this 14 cents was not only their arbitrary, but was also their proportion of the through rate. Making this comparison, if the State Commission of Florida conceived that 15 cents was a legitimate burden upon a box of oranges for a haul of 84 miles, can it with any degree of conscience be said that 18 cents per box is an unreasonable rate for a haul of 172 miles? The conditions are largely similar. The F. R. & N. Co., now the F. C. & P. Co., to which 15 cents per box was allowed, runs through similar territory to that of the S. F. & W. Ry., each having small local traffic.

When the F. R. & N. Co. was in the hands of a Receiver, on the intervention of Hoyt & Co. and Harris, complaining of the rate from Citra to Callahan, after a full hearing and on the testimony of the orange growers, Judge PARDEE held in his decision, filed in the United States Circuit Court for the Northern District of Florida, that 25 cents per box from Citra to Callahan was not unreasonable.

## Mileage Basis.

The mere fact that a carrier does not establish its rates upon a mileage basis does not make out their illegality.

La Crosse Manufacturers, etc., vs. C., M. & St. P. Ry. Co., 1 I. C. C., 629.

Because the Savannah, Florida and Western Railway Company's haul of this freight is proportionately shorter than the distance carried by the Ocean Steamship Company, in no way militates against the contention that the rate is reasonable. The proportion that the Savannah, Florida and Western Railway Company receives of the through rate cannot affect the reasonableness of the entire sum.

How this proportion came to be fixed and the absolute justness of same is so clearly and forcibly explained by Mr. H. S. Haines in his testimony that we incorporate it as a part of our argument in this case. He says, pages 236 *et sequitur* of the record:

"Prior to 1881 the only line of railroad reaching "into Florida, by which oranges and other freights "destined for Northern and Eastern points could be "carried, extended from Dupont, a point on the "Savannah, Florida and Western Railway, 131 miles "from Savannah, down to Live Oak, and the only "means of getting from Jacksonville to Savannah by "rail was via Live Oak, a distance of 259 miles. At "that time there was a line of steamers running from "Jacksonville to Charleston, which did a consider-"able business, and also a line of steamers from Jack-"sonville to Savannah.

"The through rate from Jacksonville to New York "was divided equally between the carriers from Jack-"sonville to Charleston or Savannah, whether by rail "or water, and the carriers from Charleston or Savan-"nah to New York.

"In 1881 the Savannah, Florida and Western Rail-
"way Company built the line from Waycross to Jack-
"sonville, thereby shortening the distance by rail from
"Savannah to Jacksonville eighty-seven miles. This
"Waycross line is seventy-six miles long; it runs
"through an exceedingly poor country, has practically
"no local business, and has diverted through business
"formerly carried on the line via Dupont and Live
"Oak. In order to be self-sustaining it had to have
"a remunerative rate; it was deemed just and fair
"that the portion of the through rate which the Savan-
"nah, Florida and Western Railway should get should
"not be materially decreased on account of its having
"shortened the line between Jacksonville and Savan-
"nah and its connections at Savannah had acquiesced
"in this division of the rate.

"The business done on the line between Waycross
"and Jacksonville from May 1st to October 1st is
"small, and unless the Savannah, Florida and Western
"Railway Company is allowed a considerable propor-
"tion of the through rate on the winter business, which
"consists in large part of oranges, this part of its line
"could not pay expenses. The statement is even more
"applicable to that part of its line between Dupont
"and Gainesville.

"After the Atlantic Coast Line and the Atlantic
"Coast Despatch Line were established Savannah be-
"came a competitive point for north and east bound
"business between the steamships from Savannah to
"New York and the Atlantic Coast Line and the At-
"lantic Coast Despatch Line. The last two lines nat-
"urally could not, and cannot, get any considerable
"amount of the business brought to Savannah by the
"Savannah, Florida and Western Railway."

In this connection we ask the Court to carefully read the testimony of General G. M. Sorrell, manager of the Ocean Steamship and the New England and Savannah Steamship Companies' lines, pages 136, 137, 138 and 428 of the record. It not only harmonizes with the

testimony just cited, but serves to give point and emphasis to same.

## Former Rate.

A former special rate is not a fair test of the reasonableness of a present rate.

Myers vs. Penn. Co., 2 I. C. C., 573.

The present rate is not a fair test of the reasonableness of the thirty-cent rate, nor does that rate show that the one now charged is unreasonable. The rate in 1883 was fifty cents per box from Jacksonville to New York, and it so remained until October 6th, 1884, when it was changed to thirty cents per box, and so remained until November 1st, 1886, when it was again changed to thirty cents per box. This last change was by reason of the fact that the Clyde Steamship Company had decided to put on a steamer from New York to Jacksonville and put Charleston rates into Jacksonville; that is, where the other lines charged fifty cents first-class to Charleston the Clyde Company would charge the same to Jacksonville. As soon as it was learned that it was the purpose of the Clyde Company to carry out this programme the other lines anticipated it, and from November, 1886, until 1890 the thirty-cent rate prevailed on oranges to New York. The Court will see that the rate was reduced through compulsion and not because the carrier at any time believed it would be remunerative. Why it was not earlier advanced to the rate made November 23d, 1890, is clearly explained in the testimony of Mr. C. D. Owens, page 121 *et seq.* of the record, and which we incorporate as a part of this argument.

"Q. Now, during these periods was there any gen-
" eral depression of business caused by yellow fever
" or other causes?

"A. Yes, sir; we had considerable depression over
" the whole State of Florida. The January freeze of
" 1886 had demoralized matters. First we reduced

" the rate to 30 cents on oranges, and the freeze got us " that rate. Now, it was not supposed after that freeze " that it was either good judgment or that the product " could bear it to raise the rate, and that we had better " stand and carry the business at the rate even although " we could have gotten together and raised the rates on " oranges just as on the merchandise business.

"Q. The next thing that depressed business in " Florida was what?

"A. Yellow fever. Now, at various times we desired " to raise the rates on oranges, but could not do so. " In 1886 it was the freeze. In 1887 and 1888 it was " more or less the yellow fever, and we did not think it " good judgment to raise the rate then. Our road was " insisting that we should raise the rate. Our people " were confronted with the fact that they were earning " no money, and had to look to the sources of revenue. " Our owners were confronted by the fact that they " had large investments, and were making no money. " Owing to the rivalries between the separate lines— " the Mallory, the Clyde and the Ocean Steamship " Line—the rates had run down very low, and among "the remnants of the fight was this thirty-cent rate."

## Dividend on Capital Stock.

In determining what is a reasonable rate the dividend on the capital stock of the carrier from the total traffic is, among other things, to be considered.

*In re* Food Products, 4 I. C. C., 4816 (3 I. C., 93).

The Savannah, Florida and Western Railway Company does not pay a stock dividend. It only pays interest on its bonded debt.

Record, page

The company should be allowed to make an earning on stock.

Mr. Justice FIELD, in Georgia R. R. & Banking Co. vs. Smith, 128 U. S., 174 (1888), after remarking that the authority of the Legislature to regulate charges for transportation is undoubted, adds: "Subject to the "limitation that the carriage is not required without "reward, or upon conditions amounting to the taking "of the property for public use without just compen- "sation." And Mr. Justice BLATCHFORD, in the Minnesota case, says, quoting from the opinion in Stone vs. Farmers' L. & T. Co., 116th U. S., 307-331 (1886): "It is not to be inferred that this power of limitation "or regulation is itself without limit. This power to "regulate is not a power to destroy, and limitation is "not the equivalent of confiscation." Mr. Justice BREWER, while Circuit Judge for the Iowa District, held, in Chicago & N. W. R. R. vs. Dey, 35th F. R., 866 (1888), that where a schedule of rates has been adopted by Railroad Commissioners which fixes the charges so low that they will not pay the cost of necessary skilled servants, the cost of the best appliances and keeping the same in proper condition, interest on bonds, and then leave something for dividends, a court of equity should restrain its enforcement.

The testimony shows that this road does not pay a dividend. It pays interest on a bonded indebtedness, and that out of earnings on the basis of the rate complained of as unreasonable. As a judicial question—and it is a judicial question—we think the rate reasonable.

C., M. & St. Paul vs. State Minn., 134 U. S., 418.

## Cost of Production.

Cost of production is a fact to be considered in the determination of the question of what is a reasonable rate.

Imperial Coal Co. vs. P. & L. E. R. R. Co., 2 I. C. C., 618.

Transportation charges should have reasonable relation to cost of production.

*In re* Food Products, 4 I. C. C., 48–116 (3 I. C., 93).

Poughkeepsie Iron Co. vs. N. Y. Cen. & H. R. R. R. Co., 4 I. C. C., 195 (3 I. C., 248).

The only cost of growing the orange given in the evidence is from the standpoint of the orange grower himself, and in which, the Court will observe, every item of expense that could possibly enter into it has been added. Notwithstanding this fact, a larger earning upon the investment is shown, as will be demonstrated in the argument hereafter presented to the Court, than it is claimed is earned by the carrier under the freight charged as unreasonable and illegal.

Orange growers, however, have many advantages that do not apply to other farmers. For instance, no man has lived long enough to know the life of the orange tree.

Record, pages 100–118.

The groves, after once commencing to bear, continue to increase year by year.

Record, page 100.

A full-bearing grove should yield six boxes to the tree, and have about seventy trees to the acre.

Record, page 117.

The grove of James A. Harris, as shown by the testimony, yielded in 1879 six thousand boxes, and in 1888 forty-seven thousand boxes (Record, p. 101). It is stated that the oranges of 1888 were inferior in character to those of 1879, but the net profits on the crop of 1888 were from $30,000 to $40,000 (Record, p. 102). The yield will commence from five to seven years after planting (Record, p. 103). The orange is an accommodating fruit, and will remain on the trees without rotting or falling, to an extent that belongs to no other fruit

(Record, p. 104). This is shown by the fact that many growers successfully hold their fruit until late in the season.

Record, pages 83, 84, 85, 104, 105.

## Cause of Depressed Market.

The farmer is usually the author of his own misfortunes in regard to the depression in the price of oranges, by reason of shipment of green fruit and the use of chemicals to color it and give it the appearance of ripeness.

Record, pp. 67, 68, 69-71 *et seq.*

Glutted markets are caused by reckless shipment. For example, of the increased shipments for the season of 1891–92 of seven hundred and sixty thousand boxes five hundred and sixty thousand boxes went to Eastern markets.

Record, p. 87.

## Appellee's Contentions.

It is the contention of the appellee that it starts with a *prima facie* case, by reason of the findings of the Interstate Commerce Commission upon some of the questions involved in this hearing. If this be true it is only true to a limited extent, and if, upon considering the testimony originally taken before the Interstate Commerce Commission, the Court should conclude that the judgment reached by the commission is erroneous, the petitioner below (appellee here) is again placed in the attitude of asserting an affirmative which it is bound to prove. And assuredly, if the evidence additional to that heard by the commission, taken in this case, considered in connection with the original testimony, has overcome the *prima facie* case claimed by appellee, then the burden of proof at that point shifted to appellee.

This is in harmony with the law that placed the burden of proving the charge in the beginning upon the complainant.

Fulton vs. Chicago, etc., R. R. Co.
Harding vs. Chicago, etc., R. R. Co., 1 I. C. C. R., 104.

And this in a case where the rates were much higher than they had at one time been upon the same line.

*Ib.*, 104.

The argument of counsel for appellee that because, as he states, the evidence shows that the Savannah, Florida and Western Railway Company has earned five per cent. upon its investment, therefore the orange rate to New York is unreasonable, is nothing more than the proposition that persons who invest their money in the stock of railroads should be prohibited from earning a dividend thereon. It amounts to a declaration that if a man is so insane as to build railroads he should be meek enough to be victimized without a murmur, and find recompense in the profit that others enjoy.

The further argument that because some growers have lost money that, therefore, the rate is unreasonable, is without merit. Where persons lose money by reason of a business venture, where no special misfortune happens, it merely demonstrates that the industry is unprofitable. If no person who planted oranges made a profit, then it might be said with force that the rate had something to do with the failure to earn a profit. But where some earn money and others do not in the same enterprise, it cannot be charged up to the rate, but to the growers themselves or other causes. Now, what are these causes?

In the first place, it is in testimony on the part of Mr. Huggins, of Orange County, that growers are in the habit of coloring their oranges by different processes, to give them the appearance of being ripe, and shipping them when they are really green. This de-

presses the market, and, as has been said by him in his testimony, makes it very disastrous to the shippers of ripe fruit. Aside from this, the testimony shows that the shipper by ill-advised shipping gluts the market and thereby depreciates the commodity.

Apart from any other consideration, it is shown by the Rev. Lyman Phelps that the fault is largely with the grower in the method in which he packs and ships his oranges, and not with the transportation lines.

It is not an argument to say that because at a certain time a particular rate on oranges was fixed and the people relying thereon built up an industry and after the industry was on a paying basis an advance of the rate would be unreasonable. This cannot hold, for a person who enters into any business upon any transportation line does it with the element of risk before him that the rate may be either higher, to his advantage, or lower to his disadvantage.

It is impossible for any railroad company to manage a road on such a basis that any particular industry would be profitable. If it did, then the rate would fluctuate with the market.

It is idle to argue that because the roads north of Savannah receive such a small proportion of the through rate by "all rail," that therefore the part taken by the S., F. & W. Ry. Co. is unreasonable. The roads north of Savannah are competitive with the steamships from Savannah. The steamship service was willing to put oranges into New York at twenty cents per box. The roads north of Savannah had to meet this rate by a proportion of it among them or surrender the business entirely. So that their rate was based upon competition and not upon the question as to whether it was reasonable or unreasonable. Nor is it an argument on the part of complainant that there are times that the trains do not meet the Ocean Steamship Company's ships on sailing time with the oranges, or that we miss connection. The steamers are governed by the tides. The

evidence of Mr. McCoy and others show that it would be impossible to make any schedule by which the sailing of the ships could be met, by reason of the fluctuation of the tides. It is shown that some months nearly every ship is met, while another month a large number may be missed.

## Summary.

Having directed the mind of the Court to some of the contentions of counsel for appellee, we desire to briefly suggest additional thought relating to the points heretofore presented.

## Character of Fruit.

As has been shown by the testimony of Mr. Phelps, there are several hundred varieties of oranges, he having named and received a medal for more than 140 varieties in his own grove, and then not naming, in his judgment, half that exist, and that all of these varieties differ in character and value. Depression comes from the manner of packing, because, as Rev. Phelps says, the poorest box of oranges in a class fixes the price of the class, and the poorest orange in a box fixes the price of that box, and this is due to the commission people who sell the fruit and who are complaining in this case; that for that reason he does not allow an orange of an inferior grade to ever find its way into a box of a better grade.

Nor is it amiss to call the attention of the Court to the testimony of Rev. Phelps about prices of oranges and the transportation lines. According to his testimony, the latter have improved every year since he has been in the business. Each year some new advantage has been added upon their part, and of course this is at an increased expense.

## Contrasted.

In foreign fruit the boxes weigh sixty pounds. The weight of California boxes I do not remember to have been given. But Rev. Phelps testifies that every year he has sent to him both the Mediterranean and California fruit. He says that the foreign fruit is cured in such a way that it can be packed so tight that when the oranges reach him they are not spherical, but in the form of squares, and that it would be absolutely impossible to pack Florida fruit in this manner. He also goes on to say that California fruit will last longer in shipment, because of the character of its rind and its inferior juiciness to that of the Florida fruit.

## Liability, Risk and Contributions.

From the testimony of Gen. Sorrell, of the Ocean Steamship Company, and J. C. Bruyn, of the S., F. & W. Ry. Co., and others testifying upon the same question, the Court will observe the number of claims that are made for damages and the high price per box paid by the carriers in consequence of a loss on the part of a shipper.

So as to a matter of contribution (testimony of Mr. Papy), the railroads put up their freight against the shipper's chances of loss by inherent defects or depressed markets, or any other cause where a total loss might ensue. In other words, whenever a commodity shipped does not bring the expense the carrier does not make any charge for freight, and this, too, in the face of the fact that in some instances, by reason of the fact that north of the Ohio they are compelled to prepay freights, the railroad companies are actually out of pocket for the advances.

According to the testimony of Mr. Fairbanks, the shipper of oranges realizes more than six per cent. on

all moneys paid his labor, on the money paid for fertilizers, and on that paid for freight and commissions. The sum of the money paid for labor, orange box material and packing, freight and commissions, he makes $94 per acre, and the yield of that acre $100, thereby giving $6 on the hundred with the items in as before stated. But the figures shown by Mr. Fairbanks are so wild and the source of his information so unreliable that the Court will see, upon carefully reading his testimony, that it cannot be taken as an accurate basis. For instance, he puts the yield of an acre at 100 boxes. If the Court will take the testimony of Mr. Harris, it will see that his immense grove yields an average of 190 boxes per acre. So if Mr. Fairbanks' acres yields as much as Mr. Harris' acre, he would have $6 plus the sale of 90 boxes more per acre. The testimony of Mr. McCoy places the yield per acre at a much larger figure.

And we may add that the orange is a convenient and waiting fruit. It is less liable to drop than any other fruits, save strawberries and pears, and less liable to drop than apples, and awaits the convenience of the shipper.

## Past and Present.

It was argued that, because for a long time thirty cents per box was charged to New York, that therefore the advance to forty cents was unreasonable.

It will be observed from the testimony in this case of Mr. Haines and Mr. Owens that, prior to the thirty-cent rate, the rate had been fifty cents per box; that when water competition came into Jacksonville through the Clyde steamers the rate was reduced, as a war rate, to thirty cents, and not because that amount was considered reasonable or remunerative; that after this war rate was established it was maintained by reason of the misfortunes that immediately thereafter came upon the country. First, we were visited by a heavy freeze, and this was supplemented

by a yellow-fever epidemic. The transportation lines, appreciating that they should bear the loss that came to the country with the people, forbore to advance the rate that they had long recognized should be advanced, because of the depressions ensuing from the freeze and yellow-fever epidemic. When the country had recovered from these depressions the rate was raised, not to fifty cents, which had been enjoyed at a previous period of time, but to forty cents per box. For these reasons we say that the argument is without merit, and should not control. It might as well be said, and with equal propriety, that, because for a long time the rate was fifty cents per box, that this was a proper and just rate.

## Lemons.

The fact that lemons are brought from the North at a less price than oranges are transported to New York is not an argument, because of the fact that the lemons are cured carefully and packed, and will last a great deal longer and come by the ordinary freight shipment, and not by a fast freight movement specially provided, as in the case of oranges going the other way.

## Bananas.

Nor is the fact that bananas are carried from Tampa to different Northeastern and Western terminals at a smaller figure furnish any criterion as to the reasonableness of the transportation of a box of oranges. We say this because bananas are shipped green and come in bulk in one vessel, and can be counted upon for a certain load of so many cars at a given time, and the movement goes forward at once, while with oranges a shipment cannot be counted upon, and they go by a special movement.

## Markets.

The market price of oranges cannot in any way control as to the reasonableness of rate. We have seen from the circular put in testimony in this case, issued by the president of the Florida Fruit Exchange in 1892, that the depressions in prices for that year have been great, and for similar reasons to those existing in 1888, and which caused the organization of the Fruit Exchange. At the time of this former depression, which they say was caused by the same reasons that now exist, the rate to New York was thirty cents per box, showing that the cause of the depression was not the rate, but, as before stated, gluts, ill-packed fruit and the character of the fruit.

## Increased Service Was Demanded.

As is demonstrated by the testimony of Mr. Hutchins (p. 49 *et seq.*), while there is a time named for trains to leave and arrive in Savannah, yet in fact they do not run on schedule time, but abandon their schedule and run ahead of time whenever by so doing they can make a connection and put the fruit speedily forward. Aside from this, they abandon other freights, such as can wait, and at times side-track passenger cars to give this special fruit train expeditious movement. Rev. Phelps in his testimony states that the expedition given them is worth 10 cents, and that he would rather pay 20 cents than do without it, and in his intelligent way shows that the injury to the farmer comes more largely from his method of growing the fruit, the character of fertilization, his method of packing and the markets to which he ships. And Mr. Hutchins says in his testimony that expedition is the most desirable of all elements in the shipment. This line connects with the ships of the Ocean Steamship Company, making increased speed. The argument of counsel that these

ships go no faster than if they only had passengers is not borne out by the evidence. General Sorrell in his testimony states that they are instructed to make better time and to burn more coal if necessary.

## It Was Given.

It is necessary at Savannah to drill the cars so as to arrange the fruit for the Baltimore ship, the Philadelphia ship and the Boston and New York ships in separate cars and to haul them to their separate docks. A larger force and increased labor is required; on the trains a better class of service is given and a more expensive class of men employed. That to accommodate this traffic five hundred new cars have been built, carrying 60,000 pounds against 40,000 pounds, with Westinghouse air brakes and Janney automatic couplers, at an additional cost of from $225 to $250 each.

These cars are also ventilated. They cannot be loaded to their full capacity. The evidence everywhere shows that fruit to go well must be packed with spaces above and between. The cars usually take from 250 to 300 boxes; at 80 pounds to the box this would make sometimes 20,000 pounds and sometimes 24,000 pounds, while the cars have a capacity of 60,000 pounds, and with dead freights haul nearly this tonnage in many instances.

There is further to be taken into consideration the fact that the dead freight can wait. If a part of a carload is present to-day, the other part can be taken a week hence, and phosphate rock has been known to lie as long as ten days. On the contrary, during the orange movement, if a car is only partially loaded, it must go forward in that condition, at so much greater expense to the carrier. Also the increased speed given to the orange movement increases the deterioration of the road and requires greater consumption of coal.

## Not Due to the Rate.

If oranges have made too small a return to the grower it is not due to the freightage rate. The cause could with much greater show of fairness be credited to the complainant in this case. For if a rate in a monetary way contributes to take from the grower a part of his profit, it is no less true that the money taken from him for a less consideration by the Florida Fruit Exchange is to be charged with the same cause. It is in evidence that the Florida Fruit Exchange receives eight per cent. (8 %) commission for selling the oranges. Its officers have testified that the remittances made by them to the growers for the season 1891–92, after deducting all expenses, were $1.52½ per box. Then their commission could not have been less than 16 cents per box. So that the Exchange itself takes 16 cents per box from the shipper without any element of risk or any other expense to it than the storage until the oranges are sold, and for which it pays a small rent. It takes no risk of shortage or any other element. Surely it has found the mote and overlooked the beam, though still believing in the doctrine of vicarious atonement, and that the rate should be the sacrificial offering.

## The Opinion of the Interstate Commerce Commission.

The opinion rendered in the case of the Railroad Commission of Florida against the Savannah, Florida and Western Railway Company *et al.* in the original case and on the petition for a rehearing, we contend has no application to the case as now made. The findings of fact made by the commission, if we admit, for the sake of the argument, that they were justified by the evidence before them, have no support under the

testimony as it now stands. The points made by the commission have been met by testimony additional to that presented in the original case.

The finding of the commission that the average price of oranges for the season of 1889-90 was $1.52 per box is absolutely destroyed by the testimony taken upon this hearing. Upon this question the commission had practically the evidence of but one man, and the basis of his testimony was the sales made by the Florida Fruit Exchange. A. F. Young, a commission merchant doing business in New York, testifies (pp. 419 and 420 of the Record) that the ruling price for the season of 1889-90 was $1.75; for 1890-91, $2.60 per box, and that this estimate is based upon oranges other than the Indian River orange, which he places at $1 per box higher for each year. Eugene M. Travers, another commission merchant, places the average at $2.50 per box, while the claims for oranges settled by the Savannah, Florida and Western Railway Company (Record, p. 246 *et seq.*) and the Ocean Steamship Company (Record, p. 239 *et seq.*) were very much higher. This new light should produce different conclusions.

The comparison of rates from Florida to Northeastern markets with rates on California oranges to the same market is without force by reason of the dissimilar character of the fruit.

The Florida fruit is tender, juicy and delicate and does not bear shipment as well as either the California or the Mediterranean fruit. The numerous references that we have already made to the record upon this point we again suggest to the Court, and add that the testimony comes from witnesses who were not heard before the commission.

The comparison made with cotton rates we will take up later, only suggesting here that cotton is a dead and waiting freight and the orange is a perishable freight that must be moved quickly, and for which the most improved cars are used and the best parts of ships are reserved, at the great risk of failing to provide a

cargo if the orange train should miss connection or arrive partly loaded.

The finding that 2.6 cents per ton per mile was the average revenue derived by the Savannah, Florida and Western Railway Company was based upon an erroneous mileage. This distance from Jacksonville to Savannah was the only mileage taken into consideration, while the evidence now shows that the average distance, taking the sum of the mileage of the five base points—viz., Jacksonville, Callahan, Live Oak, Gainesville and Lake City—is one hundred and ninety-seven miles. As to how the division of this rate which gave the proportion complained of to the Savannah, Florida and Western Railway Company came about, and the absolute justness of the proportion, we again refer to the testimony of Mr. H. S. Haines, vice-president of the Savannah, Florida and Western Railway Company, and Mr. Sorrell, manager of the Ocean Steamship Company of Savannah, heretofore cited in this brief.

That it did "not appear that the rapid service and special agencies employed in the carriage of oranges are necessarily required by the nature of the commodity," and that oranges are "an exceptionally hardy fruit and well adapted to long transportation," is a dictum of the commission that is not borne out by the facts as testified to in this case as it is now presented. Under other heads we have cited the testimony on this point showing the fallacy of this conclusion. That the improved service is demanded, and that the fruit is an extremely perishable commodity, there can be no doubt.

Rev. Phelps (Record, pp. 81, 82) states that the Florida fruit is a more perishable fruit than the others, and cannot stand the shipment, by reason of its lusciousness, tenderness and fullness of juice, to which the foreign fruit and California fruit can be safely subjected.

Rev. Phelps, in alluding to the movement of oranges by this route (Record, p. 81), also states that the fact

that the trains are continually moving and there are no long stops is a great advantage, as it contributes very much to keeping up a circulation through the cars, thereby preventing fermentation and saving the fruit and getting it into market in good condition; that the delay of a few days spoils the appearance of the fruit and makes it less salable.

The calculation made by the commission to show the smallness of the percentage per ton on the roads north of Savannah has no place in this argument. The proportion received per ton by the roads north of Savannah should never have had any influential relation to the part paid to the Savannah, Florida and Western Railway Company since the former had water competition from Savannah to meet, and were obliged to surrender the freight or commodate their charges to the situation. Whatever potency the part of the rate given the roads north of Savannah may have had with the commission it is eliminated from this case. The question here is as to rate from Florida basing points to Northeastern cities via Savannah by the Ocean Steamship Company. As between the Ocean Steamship Company and the Savannah, Florida and Western Railway Company the increased mileage of the former is met by the allowance made for rail miles as against water miles, and the trouble and expense of gathering, drilling, assorting and arranging the fruit in order for distribution, and the other costs and charges heretofore shown and which the former escapes. The "all rail" rate is not before the Court, except as the evidence in regard to it may throw light upon the question presented.

## The Cotton Tariff.

Referring to the cotton tariff, let us examine the conclusion of the commission.

It says "that the gross value of a ton of oranges at "$2.00 per box is $50.00, and a ton of cotton from

" $180.00 to $200.00," and that the rates on oranges were nearly double those on an article (cotton) worth three times as much, and that this was significant.

This argument contains its own destruction.

According to the estimate of Mr. Harris, we produce at least 190 boxes of oranges to the acre. At $2 per box that would be $380 to one acre. It is very seldom that land is sufficiently fertile to produce half of a bag or 250 pounds of lint cotton to the acre. Assuming a ton of four bales of 500 pounds each, it would take eight acres, of good land to produce this ton. At nine cents per pound that would be $180 as the result of eight acres' production against $380 of one acre of orange production. The commission has stated the price of cotton at too large a figure, and the price of oranges at too low a figure. If we take the small production of 100 boxes to the acre, given by Mr. Fairbanks, we would have, at $2 per box, $200 to the acre against $180 on eight acres of cotton. Certainly the traffic people were right, on principle, when they put a rate on oranges nearly double that upon cotton.

The commission bases its opinion that the orange rates are excessive to the extent of five cents per box mainly on the findings just discussed.

We respectfully contend that the additional testimony taken, and which was not before the commission, is destructive of the reasons given by the commission and entitles appellant to a reversal of this case.

## Solicitor's Fees.

1st. We claim that the fee allowed complainant's solicitor is excessive.

2d. That the allowance is without authority of law.

The evidence in this case shows that the solicitor for petitioner had thoroughly familiarized himself with the

case as solicitor of record for the Florida Railroad Commission, for which it is presumed he was compensated, and that a large portion of the testimony in this case was stipulated into the record from the testimony as it appeared of record in the original case of the Florida Railroad Commission against the Savannah, Florida and Western Railway Company *et al.* This surely should have reduced the amount of compensation. The testimony of the lawyers examined as to reasonableness of fees we contend shows that three thousand dollars would have been ample.

## Master's Fees.

We submit that in view of the fact, as shown by the record here and the receipted bill of the Master, that the testimony was taken stenographically and that litigants were compelled to pay for the stenographer independent of the fee of Master, and that a large portion of the testimony was stipulated into the record from another case in which it had been taken, the allowance to the Master was more than liberal and is excessive.

## Supersedeas.

Section 16 of the Interstate Commerce Act provides that no appeal shall operate to stay or supersede the order of the Court or the execution of any writ or process thereon. The record (pp. 502 and 503) shows that the defendant applied to the Court for a supersedeas to operate as a stay of the decree, and that this being refused then applied for a stay so far as the payment of the five thousand dollars assessed as a solicitor's fee was involved.

We urge that the act only contemplated a compliance with the decree so far as a reduction of the rate of five cents per box on oranges, as condition precedent to an appeal, and that it had no reference to the pay-

ment of the fee allowed to the complainant's solicitor, and that the Court should have permitted the fee of five thousand dollars to be superseded by a bond.

## Order of the Commission.

The evidence in this case shows that the order of the Interstate Commerce Commission to enforce which this suit was brought, was made after the resignation of one of the Commissioners and the death of another of the three Commissioners who heard the testimony orally.

The Interstate Act provides, Section 13, that said commission shall investigate any complaint, etc. Section 14 provides that whenever the investigation shall be made said commission shall make a report in writing in respect thereto, including its findings of fact upon which its conclusion was based, etc.

We submit that it was the purpose of the act to have the members of the commission who were present and heard the testimony orally, determine the questions at issue. It was not an appellate tribunal to have the testimony reduced to writing and then review same. It was to investigate. The manner of the witness upon the stand, his method of testifying and his appearance were before Commissioners Bragg, Cooley and Knapp when the testimony was taken upon which the alleged decree of the commission was founded. Commissioner Bragg having departed this life, and Commissioner Cooley having resigned shortly after the testimony was taken, only Honorable A. Knapp was left of the commission sitting to determine the question, who heard the testimony. It is upon this proposition that we urge that the decree sought to be enforced is not the decree of the Interstate Commerce Commission, and the commission should have proceeded anew to take the testimony.

## No Power to Make a Rate.

In this case the Interstate Commission exceeded its powers. Not only was the rate declared to be unreasonable, but they actually fixed the rate. By some method of reasoning, that we submit was not in any way justified by the evidence, they reached the exact sum to the mill that the rate charged was considered unreasonable.

The Interstate Commission is not empowered either expressly or by implication to fix rates in advance.

Cincinnati, N. O. & T. Ry. Co. vs. Interstate Commission, 162 U. S., page 184.

We submit that the decree appealed from should be reversed.

JOHN E. HARTRIDGE,
R. G. ERWIN,
Solicitors for Appellant.

167.51

167-572 141.

OCT 31 1896

JAMES H. McKENNEY,
CLERK

IN THE

# Supreme Court of the United States.

THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY, *Appellant*,

*vs.*

THE FLORIDA FRUIT EXCHANGE, *Appellee*.

# BRIEF FOR APPELLEE.

CHARLES M. COOPER,
*Counsel for Appellee.*

McGILL & WALLACE, LAW PRINTERS, Washington, D. C.

IN THE

# Supreme Court of the United States.

THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY, APPELLANT,

*vs.*

THE FLORIDA FRUIT EXCHANGE, APPELLEE.

## Brief for Appellee.

### Statement.

This is an appeal from a decree of the Circuit Court of Appeals of the United States for the Fifth Circuit, rendered May 29, 1894, affirming a decree of the Circuit Court of the United States for the Northern District of Florida, in chancery, rendered November 30, 1892. (See Rec., 284.)

The decree so affirmed enjoined appellant from further disobeying an order of the Interstate Commerce Commission of the United States, therein specified, and from refusing to transport oranges and lemons from certain base points in Florida, to New York City, and other Eastern cities, at and for rates of charges therefor not in excess of an advance of 5 cents per standard Florida box on the rates in effect next preceding November 23, 1890. Said decree also required defendants therein to pay the costs, and to pay to complainants, or its solicitor

of record, the fee of the complainant's solicitor and counsel, Charles M. Cooper, of $5,000, which is hereby allowed herein. (Rec., 271, 272.)

The proceedings in the Circuit Court were under section 16 of the Interstate Commerce Act as amended (see Act to Regulate Commerce, February 4, 1887, 24 U. S. Statutes at Large) by acts of March 2, 1889, 25 Stat., 855, and February 10, 1891, 26 Stat., 743.

Curtis Important Fed. Stats., 99.

The complaint before the Interstate Commerce Commission was filed December 30, 1890, by the Railroad Commission of Florida, which was authorized to file the same by the statute of Florida approved June 4, 1889, which act provides that it shall be the duty of said State Railroad Commission "to petition the Interstate Commerce Commission of the United States for the regulation and control of the offending railway company or companies, or other person or persons doing business as common carriers, by the application of the provisions of the interstate commerce law of the United States and amendments thereto, and to take all necessary and expedient measures to secure to the people of Florida the full benefit of the interstate commerce law in the regulation and control of interstate commerce."

Said petition of the Railroad Commission of Florida alleged, among other things, that during the season of 1885–'86, and for each season since, said several lines, mentioned therein, by arrangements and agreements among themselves, established and maintained rates for the transportation of oranges and lemons by said several lines from said base points in Florida to points of destination, with but few changes until and including the season of 1889–'90, during which season said rates were to New York by said several lines certain rates specified in the complaint, and that the rates to Philadelphia,

Baltimore, and other Eastern cities were in proportion to those to New York. That "said rates so voluntarily made and maintained by said lines afforded ample compensation for the service rendered," but at the beginning of the season of 1890–'91, to wit, in November, 1890, the defendants "constituting said several lines combined and agreed to advance, and did actually advance, said rates ten cents per standard box," and that said advanced rates are unlawful, and in violation of the act to regulate commerce, are unjust, unreasonable and excessive, and materially injure an important industry and a large class of shippers who have during the last twenty-five years, at an expense of millions of dollars, built up in the State of Florida a valuable and productive industry, to wit, the growth and production of oranges, lemons, and other citrus fruits, in reliance upon the continuance or probable decrease of the said previous rates voluntorily established and so long maintained.

It was prayed by the said complainant that the defendants be ordered to cease and desist from said violations of the act to regulate commerce, and that they be required to transport oranges and lemons between said points at rates which would have amounted to 5 cents per box less than the rates which prevailed next preceding November 23, 1890; that each of the defendants which had participated in such alleged excessive increased rates be required to refund such excess to the shippers, and for general relief. (Rec., 6, 8–10.)

The appellant, the Savannah, Florida and Western Railway Company, and a number of other railroad companies and certain steamship companies, were named in the complaint as defendants. They were duly notified, and all filed answers. Hearing was had before the Interstate Commerce Commission, and much evidence bearing on the issues was presented to the commission by the complainant and the defendants respectively.

After the hearing, and while the Interstate Commerce Commission held the case under consideration, the Railroad Commission of Florida was abolished, but the Interstate Commerce Commission proceeded to pronounce its findings and render its decision and order in the case. (Rec., 13.)

Said commission found and decided that the advance of rates of 10 cents per box made by the defendants on November 23, 1890, was to the extent of 5 cents per box warranted, and in so far as such advance exceeded 5 cents per box it was unreasonable and contrary to law. The order of the commission was that the defendants and each of them cease and desist from charging or collecting for the transportation of oranges and lemons any greater sum than an addition of 5 cents per box to the rates in force prior to the advance made on November 23, 1890; and that they make reparation for the injuries occasioned by such unreasonable and unlawful rates by refunding to the several persons entitled thereto all sums received by them for such transportation in excess of an addition of 5 cents per box to the rates in force prior to the advance of November 23, 1890. (Rec., 29–32.)

A number of the defendants, including the appellant herein, applied to the commission for a rehearing, but the rehearing prayed for was refused. (Rec., 157–168.)

On December 14, 1891, the appellee herein, the Florida Fruit Exchange, filed its petition in the Circuit Court of the United States for the Northern District of Florida, in equity, against the Savannah, Florida and Western Railway Company and the Ocean Steamship Company of Savannah, alleging that petitioner was a corporation under the laws of Florida; setting forth the facts concerning freight rates on oranges which had been stated in said petition of the Railroad Commission of Florida to the Interstate Commerce Commission; the filing of said petition of said Railroad Commission with said In-

terstate Commerce Commission; the allegations of said petition that said advanced rates were unlawful and in violation of the act to regulate commerce, and unjust, unreasonable and excessive, and materially injurious to a large class of shippers who have at great expense built up a valuable and productive industry in reliance upon the continuation or probable decrease of the said previous rates voluntarily established and long maintained by said carriers themselves, to wit, the growth and production of oranges, lemons and other citrus fruits, and avering said allegations to be true, and stating the proceedings before the Interstate Commerce Commission and the order of said commission in the premises. Said petition to said court also alleged that the defendants wholly failed and refused to obey said order of the Interstate Commerce Commission, and continued to charge said excessive rates established by said advance of November 23, 1890. That the petitioner was engaged in the business of shipping and selling oranges and lemons, and was a large shipper of oranges and also shipped lemons from some of said points in Florida to certain of said northeastern cities over the line of defendants, and was very frequently so shipping large numbers of boxes of oranges in the due course of its business, and was interested in the said order of said commission and its observance by the defendants. That the petitioner had tendered the defendants the maximum rates allowed by the order of the commission, but defendants had refused to transport boxes of oranges over their said line therefor, and continued to exact the rates established by said advance of November 23, 1890, "which last mentioned rates petitioner alleges are unjust, unreasonable, excessive, contrary to law, and contrary to, and in disobedience of, the said report, opinion, findings, requirements and orders of said Interstate Commerce Commission."

Petitioner then prays an injunction against defendant

in the premises, that defendants and each of them be decreed to pay to petitioner its reasonable costs and counsel fees therein, and for general relief. (Rec., 1–4.) To this petition the appellant, the Savannah, Florida and Western Railway Company, filed its answer. (Rec., 42–46.)

The cause was then referred to a master to take testimony and report the same to the court with his findings. (Rec., 47.)

The report, findings, and orders of the Interstate Commerce Commission were filed with the master, and much testimony was presented to him by said railway company and by petitioner. (Rec., 49–252.)

The master on September 17, 1892, filed his report to the court of the evidence and his findings, sustained the findings and decision of the Interstate Commerce Commission, and recommended that the prayer of the petitioner be granted and the orders of the commission enforced, and that $5,000 be allowed for the services of complainant's solicitor in the cause. (Rec., 252–266.)

Said railway company filed exceptions to the report of the master, which exceptions went only to the findings of the master of matters of fact from the evidence or his determination as to the weight of evidence. (Rec., 267–9.)

The Ocean Steamship Company, of Savannah, also adopted these exceptions as its own. (Rec., 269, 270.)

The cause was then heard in said Circuit Court, and argued by counsel for complainant and for defendants, and thereupon the court rendered its decree, November 30, 1892, enjoining the defendants as prayed, and further decreeing "that said defendants pay to complainant the costs of this suit, including the master's charges as reported by him, and pay to complainant or its solicitor of record the fee of the complainant's solicitor and counsel, Charles M. Cooper, of $5,000, which is hereby allowed herein." (Rec., 270, 271.)

On November 16, 1892, said railway company applied to the Circuit Court to grant a supersedeas to said decree, which the court on the same day refused. (Rec., 274, 275.)

Thereupon, on said November 16, 1892, said defendant prayed the allowance of its appeal to the Circuit Court of Appeals for the Fifth Circuit, which was the same day ordered allowed as prayed. (Rec., 273.)

On same day said defendant filed its assignment of errors in said Circuit Court. These assignments were—

1st. That the court erred in overruling exceptions to master's report and affirming same.

2d. That the court erred in finding, as a matter of fact, that 35 cents per box for oranges from base points in Florida to northeastern cities was a reasonable rate.

3d. That court erred in allowing a fee of $5,000 to complainant's solicitor.

4th. That provision of interstate commerce law for such fee was unconstitutional.

5th. That fees allowed master were excessive.

6th. That court erred in refusing to grant supersedeas. (Rec., 275, 276.)

On December 27, 1892, said defendant paid to said Charles M. Cooper the said fee of said complainant's solicitor and counsel named in said decree, and on the same day paid to the master his fees in the cause. (Rec., 272, 273.)

The cause came on to be heard on appeal in the Circuit Court of Appeals on November 20 and 21, 1893, and thereupon counsel for appellant withdrew and abandoned in open court, and in writing, the assignment of error that

the provision of the interstate commerce act for allowance of counsel fee for complainant's counsel was unconstitutional. (Rec., 282, 283.)

On May 29, 1894, the Circuit Court of Appeals affirmed the decree of the Circuit Court. (Rec., 284.)

On June 20, 1894, appellant prayed the allowance of an appeal in said Circuit Court of Appeals and filed its assignment of errors therein, whereupon it was ordered that the appeal prayed be allowed. The errors assigned were:

1st. That said Circuit Court of Appeals erred in affirming said decree of said Circuit Court.

2d. That said Circuit Court of Appeals erred in finding as matter of fact that 35 cents per box of oranges from base points in Florida to northeastern cities of the United States was a reasonable rate.

3d. That said Circuit Court of Appeals erred in its application of the law to the facts found in the Record.

4th. That said Circuit Court of Appeals erred in not modifying the rates from the basing points of different distances and making uniform on the basis of distances.

5th. That said court erred in allowing the master's fees, same being excessive.

6th. That said court erred in allowing the fees of the solicitor of the Florida Fruit Exchange, said fees being excessive and unwarranted. (Rec., 285, 287.)

Counsel for appellee does not apprehend that this court will go into a consideration of or will review the questions of fact or the conclusions thereon involved in the determination of the courts below, the master, and the Interstate Commerce Commission, as to what were reasonable rates as established by the evidence. The com-

mission, the master, the Circuit Court, and the Circuit Court of Appeals have all agreed on that subject. The practice of this court is well established, that it will not review the evidence or findings thereon under such circumstances, and it has been twice so declared recently in appeals concerning the Interstate Commerce Act, namely, in the Cincinnati, New Orleans and Texas Pacific Railway Co. *v.* Interstate Commerce Commission and in the Texas and Pacific Railway Company *v.* Interstate Commerce Commission; therefore counsel does not deem it necessary or desirable to detain the court by prefixing any detailed statement of the evidence here, but the same has been dealt with in the latter part of this brief, to which the attention of the court is respectfully requested, if the court should see fit to go into a consideration of those matters.

## ARGUMENT

### I.

**The objections that the Interstate Commerce Commission was not authorized or empowered by the Act to Regulate Commerce to make the order in question concerning maximum rates, or that the courts had not power or authority to make the decrees in the premises, were not made before the Interstate Commerce Commission, nor in the Circuit Court, or Circuit Court of Appeals, nor in the assignment of errors on appeal to said Circuit Court of Appeals, nor in the assignment of errors to the decree of the Circuit Court of Appeals filed in that court, on which the appeal to this court was allowed, and this court will not consider such objections.**

No such objections as to the power or authority of the commission or of the courts was made below, or in any

way called to the attention of the commission or of the Circuit Court, or of the Circuit Court of Appeals, or made in said assignments of error as aforesaid, and it is submitted that this court will not entertain or consider them when made for the first time in this court. (See preceding statement of facts and assignments of errors, Rec., 275, 285.) Not only will this court not consider questions of alleged error raised here for the first time and never presented to the court below, but this court will not consider even jurisdictional questions under such circumstances if the court below had jurisdiction to entertain the cause or to hear and determine the same at all. There is no doubt that the Interstate Commerce Commission had authority to entertain the petition against the appellant for relief from the alleged unreasonable rates and to hear the matter and make an order to enforce reasonable rates, and if that order extended too far or was too broad it was but error. So the Circuit Court undoubtedly had jurisdiction to entertain the petition of the complainant under section 16 of the Interstate Commerce Act, and had jurisdiction to hear the cause, construe the statute, and render its decree, and if it erred in any respect therein it was but error, and so of the decision and decree of the Circuit Court of Appeals. This court, therefore, it is submitted, will not consider such objections, which were never in any way raised or presented below.

Thus, although the objection that a U. S. Court had not jurisdiction of a cause removed from a State court, because the petition for removal was filed too late, would seem in some sense jurisdictional, yet it was held that the objection would not be considered, because it was raised for the first time in the Supreme Court.

Martin *v.* Baltimore & Ohio R. Co., 151 U. S., 673.

Objection being raised in the Supreme Court that a statute was unconstitutional, and tha pilot officials of

the State of New York had no jurisdiction outside the territorial waters of New York, it was said by this court:

"The objection does not appear to have been taken in the Circuit Court, and can not, therefore, be considered here."

Wilson *v.* McNamee, 102 U. S., 574.

The rule is the same in common law and in chancery cases.

"As to matters not brought to the attention of the court below, its decree will not be disturbed."

Lloyd *v.* Preston, 146 U. S., 631, 645.

"It is sufficient answer to this objection that no such point was made below."

Pacific Railroad Removal cases, 115 U. S., 1, 17;
Morill *v.* Jones, 106 U. S., 467;
Clark *v.* Fredericks, 105 U. S., 4;
Ins. Co. *v.* Mordecai, 22 How., 112;
Wheeler *v.* Sedgwick, 94 U. S., 1, 3;
Nat. Bank *v.* Commonwealth, 9 Wall., 353, 363.

## II.

**The Interstate Commerce Commission was authorized and empowered by the Act to Regulate Commerce to make the order in question concerning rates, the Circuit Court had power and authority to make its decree in the premises, and the Circuit Court of Appeals had the right to affirm the same. The Supreme Court of the United States has never made any decision or pronounced any opinion to the contrary.**

Not waiving, but insisting upon, the objection that no point was made below that the Act to Regulate Commerce did not give authority to the Interstate Commerce Commission to make such an order as that in question,

yet if this court should see fit to go into that question the above proposition is confidently submitted.

The proposition will be herein discussed in three divisions, namely:

1st. That this court has never made any decision or pronounced any opinion that when complaint is duly made to the Interstate Commerce Commission against certain specified rates of charges on certain articles over certain lines of transportation between certain places, and the transportation companies interested are duly notified and answer the complaint, and the matters in question are fully investigated by the commission and full evidence upon the subject is presented to the commission, and all parties are fully heard, and the commission finds that the rates complained of are unjust and unreasonable, the commission has not the right and authority under the Act to Regulate Commerce to declare wherein and to what extent such rates are unjust, unreasonable, and excessive (that is to say, how much of the rate is just and reasonable and how much is unjust, unreasonable, and excessive), therein to ascertain and declare the maximum of each rate that is reasonable and just, and to order defendants to observe the same and to desist and abstain from charging or collecting in excess thereof.

2d. That the Interstate Commerce Commission does possess such power and authority under the statute.

3d. That whatever construction may be put upon the Interstate Commerce Act, or any language heretofore used in any opinion in this court, the particular order of the commission in question in the case at bar was authorized and legal.

*1st. That this court has not made any decision or announced any opinion denying the authority of the Interstate Commerce Commission to ascertain and declare a maximum*

*which a transportation line shall not exceed in fixing a rate or charging or collecting compensation, or the authority of the commission to make its order accordingly where there has been due notice, investigation, evidence, and hearing.*

The Interstate Commerce Act is a great remedial statute, called into being by great abuses, dealing with vast interests, and is practically the only means of protection afforded to the people of this country against excessive exactions by the transportation lines which control an immense volume of the traffic coming under the designation of interstate commerce. Every community and every individual in the land are affected by this legislation, and it is of the greatest public concern that the act should be maintained in full force and effect. Its provisions are at most very limited, conservative, and moderate. It is respectfully submitted that this court did not, in a mere *addendum* of a few words at the end of a case already decided, make any decision or pronounce any opinion so important, broad, and far-reaching, and, it is submitted, so destructive of one of the chief features of the Interstate Commerce Act and of the usefulness and efficiency of the commission, as is contended by counsel for appellant.

The case relied on by counsel for appellant and those who contend that this court has so decided, is the Cincinnati, New Orleans and Texas Pacific Railway Company *et al. v.* The Interstate Commerce Commission (162 U. S., 184), known as the Social Circle case.

Some of the subordinate United States courts seem also to have accepted this version of that case without examination or consideration.

Interstate Com. Com. *v.* Louisville & Nash. R. Co., 75 Fed. Rep., 429;
Same *v.* Lehigh Valley R. Co.;
Same *v.* Northeastern R. Co., of South Ca.;
Same *v.* Cin., New Orleans & Tex. Pac. R. Co. *et al*, Fed. Rep.

When the said case is examined, it is submitted that it is apparent that there was no such decision or opinion.

What this court decided in the case of the Cincinnati, New Orleans and Texas Pacific Railway Company, it is submitted, was that the courts below had found the rate in question from Cincinnati to Atlanta reasonable, and that this court would not review their decisions on that matter of fact. Afterwards were added the words concerning the power of the commission "to itself fix rates," which, it is respectfully submitted, were not necessary to the decision of the cause, and which it will also be submitted, are in nowise susceptible of the construction which appellant seeks to put upon them. If said portion of the opinion should seem to require any explanation, or modification, or fuller statement, this court, it is submitted, will not hesitate to make the same, as it has frequently done in other cases.

The language in question used in the said case is not near as comprehensive, unlimited, or strong as language, as to absolute power of legislation to fix rates, used in Munn *v.* Illinois (94 U. S.), or in Budd *v.* New York (143 U. S., 517), or Peik *v.* Chicago and Northwestern Railway Company (94 U. S., 164). In the last case, in the opinion of the court, it was said:

"Where property has been clothed with a public interest, the legislature may fix a limit to that which shall in law be reasonable for its use. This limit binds the court as well as the people. If it has been improperly fixed, the legislature, not the courts, must be appealed to for the change."

Yet this court subsequently held that it had not decided that question, and in Reagan *v.* Farmers' Loan and Trust Company (154 U. S., 397, 398), the decision and opinion, it is submitted, fully sustain the contention of appellee that there was no such decision by this court in said Cincinnati, New Orleans and Texas Pacific

Railway Company case, as is contended by appellant. The following language is used by this court in Reagan *v.* Farmers' Loan and Trust Company:

"In Chicago, Burlington and Quincy Railroad *v.* Iowa (94 U. S., 155), and Peik *v.* Chicago and Northwestern Railway (94 U. S., 164), the question of legislative control over railroads was presented, and it was held that the fixing of rates was not a matter within the absolute discretion of the carriers, but was subject to legislative control. As stated by Justice Miller in Wabash, etc., Railway *v.* Illinois (118 U. S., 557, 569), in respect to those cases: 'The great question to be decided, and which was decided, and which was argued in all those cases, was the right of the State within which a railroad company did business to regulate or limit the amount of any of these traffic charges.' There was in those cases no decision as to the extent of control, but only as to the right of control."

"Budd *v.* New York (143 U. S., 517), announces nothing to the contrary. The question there was not whether the rates were reasonable, but whether the business, that of elevating grain, was within legislative control as to the matter of rates. It was said in the opinion: 'In the cases before us the records do not show that the charges fixed by the statute are unreasonable.' Hence there was no occasion for saying anything as to the power or duty of the courts in case the rates as established had been found to be unreasonable."

Reagan *v.* Farmers' Loan and Trust Co., 154 U. S., 397, 398.

But does the language in Cincinnati, etc., Railway *v.* Interstate Commerce Commission, concerning the power of the commission "to itself fix rates," contain any such meaning as is sought to be given it by appellant? We submit that it does not.

The point seems to have been but little argued in that case, but little attention seems to have been paid to it, and it was not necessary to the decision of the case, hence the statement in the opinion is not as full or clear as

doubtless it would otherwise have been; but it is submitted that it is, nevertheless, apparent that it has no such meaning as is sought to be imputed to it.

What were the facts of that case concerning which the language in question was used, and what was the connection in which it was used? It is noted in the opinion that the only testimony offered or heard before the commission as to the reasonableness of the rate was that of one witness for the defendant. The statement of the commission is also noted, from which it appears that the commission arrived at its finding as to the Atlanta rate only by a comparison with the Birmingham rate, and it does not appear that there was any evidence as to the relative or different conditions or circumstances of the two rates, or the circumstances that affected the Birmingham rate. When, however, the commission filed its petition in the Circuit Court to enforce the maximum rate which it had established, the defendants showed in their answers, and by evidence, that the rate to Birmingham was affected by rail and water competition, which did not apply to Atlanta, and which had not been before the commission either in the pleadings or the evidence. Thus it appeared that the commission had fixed its maximum solely by comparison with another rate, the facts as to which were not involved in the issues made before the commission nor shown by evidence before the commission.

Thereupon it is said in the opinion of this court:

"Whether Congress intended to confer upon the Interstate Commerce Commission the power to itself fix rates, was mooted in the courts below and is discussed in the briefs of counsel. We do not find any provision that expressly, or by necessary implication, confers such a power.

"It is argued on behalf of the commission that the power to pass upon the reasonableness of existing rates implies a right to prescribe rates. This is not necessarily

so. The reasonableness of the rate in a given case depends on the facts, and the function of the commission is to consider these facts and give them their proper weight. If the commission, instead of withholding judgment in such a matter until an issue shall be made and the facts found, itself fixes a rate, that rate is prejudged by the commission to be reasonable."

When it is borne in mind that the court was speaking of a case in which the only testimony before the commission was certain testimony for the defendants, and wherein the commission fixed the maximum for rate in question solely by comparison with another rate, as to which other rate there were controlling facts not in issue and not in evidence before the commission, we submit that it is clearly apparent that the language of the opinion means no more than that the commission has not the power "*to itself fix rates*" by merely establishing a rate without proper issue made or facts found, as some State Railroad Commissions have done in the first instance: but it is submitted that it is in no way stated or implied that the commission, on proper notice, issues, evidence, and hearing, in deciding that a rate is unreasonable, may not find and declare wherein or to what extent it is unreasonable or excessive, and may not order that a defendant desist from charging or collecting in excess of the maximum found reasonable.

The more the language of the opinion is considered the more, it is submitted, does it confirm this interpretation. The repetition of the language concerning the authority of the commission to "*itself fix rates*," that the "reasonableness of the rate, in a given case, depends on the facts, and the function of the commission is to consider these facts and give them their proper weight," that the commission should withhold judgment "*until an issue shall be made and the facts found*," and that a rate should not be "prejudged" by the commission, all show

that nothing more was intended to be said in the opinion than that the commission is not authorized to itself fix rates without due notice and investigation, issue made, and hearing or opportunity therefor, evidence and facts found, but there is no declaration or implication that the commission could not on proper proceedings and evidence find how much of a rate was reasonable, and prohibit the charging of the excess.

That such is the proper interpretation of the said opinion is also confirmed by the Import case (Tex. & Pac. R. R. Co. *v.* In. Com. Commission, 162 U. S., 197), decided at the same term.

In said Import case the commission ordered that the inland rate on certain traffic coming into this country from abroad should not be less than the rate on certain domestic traffic, thereby fixing a rate for the time being on such foreign traffic, namely, the same rate as that then prevailing on said domestic traffic. This court overruled the commission and the courts below because the commission had refused to consider certain circumstances which this court held to be material, but recognized the power of the commission to decide upon and fix a reasonable rate when the inquiry is conducted on a proper basis. This court says:

"We do not refer to these matters for the purpose of indicating what conclusion ought to have been reached by the commission or by the courts below *in respect to what were proper rates to be charged by the Texas and Pacific Railway Company*. That was a question of fact, and *if the inquiry had been conducted on a proper basis we should not have felt inclined to review conclusions so reached.*"

*2d. The Interstate Commerce Commission does possess such power under the statute*

The Interstate Commission gets its authority from the Act to Regulate Commerce, approved February 4, 1887

(25 Stat., 379), and amended March 2, 1889 (25 Stat., 855), and February 10, 1891 (26 Stat., 743).

Curtis Important Fed. Stats., 87.

The first section of the act declares that charges for transportation, etc., "shall be reasonable and just."

The twelfth section provides, "and the commission is hereby authorized and required to execute and enforce the provisions of this act."

The thirteenth section provides for complaints and investigation.

The fourteenth section provides for the report and findings of the commission.

The fifteenth section provides for notice from the commission to the carrier to desist from violation of the law, or to make reparation, or both.

The sixteenth section provides for the enforcement of the orders of the commission by the courts.

The principal duties of the carrier declared by the act are, first that its charges shall be reasonable and just; second, that it shall make no discrimination, nor give any unreasonable preference or advantage. It is made the duty of the commission to enforce these provisions. How is the commission to enforce reasonable rates unless it is authorized to declare in the first instance, upon proper notice, investigation, and hearing, what is reasonable? How is it to order reparation for excessive charges unless it is authorized to decide how much of the rate is reasonable and how much is excessive?

Far the most important and useful purpose of the act is to prevent unreasonable charges in the future, and reparation for the past is merely an incidental and minor consideration. Unless the commission is authorized, when it so investigates, to declare how much of the rate is reasonable, it is submitted that the act in one of its most important features—in fact, it may well be said in

its most important feature—is nullified. What is there in the act to forbid such interpretation? On the contray, does not the whole purpose and context sustain it? The power to condemn an existing rate as a whole, it is conceded, is properly implied from the act, why then is not the power to condemn so much of the rate as is unreasonable and declare how much of it is reasonable equally properly implied? In fact, is not the power to decide how much of the rate is reasonable necessarily involved and included in the power to condemn the rate as unreasonable?

"Whenever a power is given by statute, everything necessary to make it effectual, everything essential to the exercise of it, is given by implication."

Endlick on the Interpretation of Statutes, secs. 415, 421;

Citizens Sav. & Loan Ass. *v.* Topeka, 20 Wall., 655;

Wilson Co. *v.* Third Nat. Bank, etc., 103 U. S., 770.

So the power exercised by the commission in the Social Circle case, and affirmed by this court, in ordering railroads to desist in the present and the future from charging more for a short than for a long haul, is not expressly given the commission by the statute but is only implied from the general power given to enforce the act, and it is not perceived why the power to ascertain how much of a rate is reasonable, and to prohibit the charging of more, is not equally implied.

It is proper, in this connection, to quote the language of the Interstate Commerce Commission, construing the act and stating its own position on this question.

It is to be noted that the power was exercised from the beginning by the commission, and, it appears, for several years, without its occurring to anyone that it was

not clearly implied and given by the statute. The question seems to have come up for the first time in Coxe Bros. & Co. *v.* Lehigh Valley Railroad Company (4 Interstate Commerce Commission Rep., 576). The counsel for complainant asked the commission merely to condemn the existing rate as a whole and not to declare what was reasonable, but counsel for the defendant railroad company protested against such a proceeding, and said:

"That will not do. If the commission says that the present rates are unreasonable, they must say so because there is a different rate they have determined to be a proper one. It will not do for you to make a general finding, and to say: 'The present rates are unreasonable, but we do not know what they ought to be. We can not fix them for you. You must agree upon them amongst yourselves.' If unreasonable, say to what extent they are unreasonable; whether to the extent of a cent, or of many cents, or of a dollar a ton. Would it be proper for you to lay down an abstract principle that would lead to endless confusion in the application? That would put all at chaos. For Heaven's sake do not make the matter of the proper rates for carrying coal one to be regulated in a conference between the carrier and the shipper.

"If you have been convinced by these petitions that the present rates are unreasonable and unjust, then say what the rates ought to be. This will be your duty."

Whereupon the commission said:

"Under such a rule applied to the subject of this complaint, five several proceedings would be necessary to establish the reasonable rate, if in each proceeding the carrier deemed a 10-cent reduction sufficient. If impressed with the belief that the existing rates were not exhorbitant, the carrier should attempt compliance with the commission's conclusion that they were excessive by making the least possible reductions, repeated and continual applications would be necessary to correct a single abuse. Certainly Congress intended no such ab-

surdity as this, but, as insisted by counsel for the road, where we have been convinced that rates are unjust, it will be our duty to say what they ought to be, or at least to determine upon some rate, any charge in excess of which would be unreasonable. If the duty of the commission in respect to unjust and unlawful rates ends when it has been convinced that rates are unreasonable, and so decided them to be, and for any reason the commission may not determine what are, as well as what are not, reasonable, the regulation provided by the statute begins with complaint and ends in confusion."

The question came up again, and seems to have been insisted upon for the first time in Perry *v.* Florida Central and Peninsula R. Co. (5 In. Com. Com. Rep., 110), and the commission used the following language in deciding same:

"The act to regulate commerce expressly requires that rates shall be reasonable, the commission is in terms required to enforce the provisions of the act. In other words, the commission's power, and consequently its duty is to enforce reasonable rates. It is not, of course, contended that the act confers on the commission the general power to prescribe the traffic charges of carriers subject to its provisions. The general scope of the act, as well as its specific provisions as to complaints to, and investigations and reports by, the commission forbid such an interpretation. But where complaint is made to the commission, or a specific inquiry is instituted by it, on its own motion, and it is found after due notice, hearing, and investigation that an existing rate is unreasonable, the commission is not restricted simply to finding that fact, and forbidding the carrier to charge the existing rate; but it may go further and enforce a reasonable rate; that is, the commission may in such case, by clear implication from the language of the law, put in force a reasonable rate. Before it can do that it must necessarily determine what the reasonable rate is.

"The power of the commission to ascertain and declare what is a maximum reasonable rate in case of a complaint charging unreasonableness also results from those

provisions of the act requiring the commission to determine what reparation, if any, should be made by the carrier.

"It has, therefore, been the unvarying practice of the commission to fix reasonable rates where, on the hearing of a cause, circumstances seemed to call for such action, or at least to determine the rate any charge in excess of which would be unreasonable."

The rule that the contemporaneous construction of a statute by officers who are by law required to enforce it will receive the greatest consideration, and will not be overruled except for the most cogent reasons, and in cases of ambiguity will control, has been decided by this court very frequently, and in the strongest language.

Stuart *v.* Laird, 1 Cranch., 299, 309;
Pennoyer *v.* McConnaughty, 140 U. S., 23;
U. S. *v.* Burlington & C. R. Co., 98 U. S., 341;
Heath *v.* Wallace, 138 U. S., 582;
U. S. *v.* Moore, 95 U. S., 763;
Hastings & C. R. Co. *v.* Whitney, 132 U. S., 357, 366.
Edwards *v.* Darby, 12 Wheat., 210.

This power has been exercised by the commission from the beginning of its existence down to the present time. Its orders thereunder have been made concerning lines of transportation in all portions of the country, and concerning a great variety of articles, many of them of the greatest importance in commerce. So obvious did the power seem under the statute that for several years no one seems to have even questioned it, and it is submitted that this court will not overturn that construction now.

Some of the cases in which the power has been exercised are the following:

Evans *v.* Oregon Ry. & Nav. Co., 1 Interstate Com. Com. Rep., 325;
Reynolds *v.* N. Y. R. Co., 1 *ib.*, 393;

Farrar *v.* East Tenn. & Ga. & C. R. Cos., 1 *ib.*, 480, 489;
Brady *v.* Penn. R. R. Co., 2 *ib.*, 131, 141;
Abbott *v.* E. Tenn., Va. & Ga. R. Co., 3 *ib.*, 225, 239, 240;
Moran *v.* Grand Trunk Ry. Co., of Canada, 3 *ib.*, 252, 263.
New Orleans Cotton Ex. *v.* Ill. Cen. *et al.*, *ib.*, 534, 573;
Lehman, Higginson & Co. *v.* Tex. & P. R. Co., 5 *ib.*, 44, 56;
Murphy, Wasey & Co. *v.* Wabash R. Co., 5 *ib.*, 122;
*In re* Coal Transportation by L. & N. R. Co., 5 *ib.*, 466;
Evans *v.* Union Pac. R. Co., 6 *ib.*, 521.

The Interstate Commerce Act is, as has been said, a great remedial act, and it is submitted that the court will so construe it as to preserve its effectiveness and usefulness. It was obviously the intention of Congress that the commission should have power to prohibit unreasonable rates, subject to the review of the courts, as provided for in the act, and the power to declare in a proper case what rate is reasonable is necessary to the exercise of the power or performance of the duty. The statute does not concern itself merely with individual grievances or reparation for past exactions, but its chief purpose is to secure reasonable rates for the future, and this purpose is made all the more apparent from the fact that the act, in section 13, authorizes complaints by societies, bodies politic, and State Railroad Commissioners, evidently for the benefit of the public and to have reasonable rates decided, fixed, and enforced. Any further specifications in the statute of the powers of the commission in the premises would only have tended to limit them and embarrass their exercise.

"A thing which is within the intention of the makers of the statute is as much within the statute as if it were within the letter.

"The meaning of the legislature may be extended beyond the precise words used in the law, from the reason or motive upon which the legislature proceeded, from the end in view, or the purpose which was designed.

U. S. *v.* Freeman, 3 How., 556, 564, 565.

It is submitted that the contention that the commission must only condemn the existing rate without saying wherein or to what extent it is unreasonable, and can only arrive at a decision of what is a reasonable rate through numberless suits whittling down the rate little by little until a reasonable rate is reached, is manifestly unreasonable and absurd.

"Nothing is better settled than that statutes should receive a sensible construction, such as will effectuate the legislative intention, and, if possible, so as to avoid an unjust or absurd conclusion."

Lau Ow Bew *v.* U. S., 144 U. S., 47, 59.

The fact that injunction against charging excessive rates, including necessarily the deciding and designating of what rates are reasonable, is the only practical means of affording relief against unreasonable rates, is further evidenced by the fact that courts of equity, apart from statute, frequently enjoin the charging of more than certain rates by railroads, on the grounds that suits for damages afford inadequate remedy, and also to avoid multiplicity of suits. And in such cases the courts have designated the rates to be charged, as in cases enjoining against charging more than designated rates charged others. And in a number of cases in the United States courts, of controversies between railroad companies and express companies, the courts have granted injunctions requiring the railroads to carry express matter at rates designated by the court in the absence of agreement be-

tween the parties and until the further order of the court, generally with the provision that parties might move thereafter to increase or reduce the compensation.

Scofield *et al. v.* Lake Shore & Mich. South. R. R. Co., 42 Ohio State Rep., 572;

Express Cos. *v.* Railroad Cos., 10 Fed. Rep., 214, 215;

Wells, Fargo & Co. *v.* Or. Ry. & Nav. Co., 15 Fed. Rep., 562;

Same *v.* Oregon & C. Ry. Co., 18 Fed. Rep., 667, 673;

Dinsmore *v.* L. C. & L. Ry. Co., 2 Fed. Rep., 475.

Nor is there anything unreasonable in the power claimed for the commission. In England, whose legislation on the subject has always been considered very conservative, the Railroad Commissioners exercise a very analogous power in fixing through rates.

The Midland Ry. Co. *v.* The Great Western Ry. Co., 2 Nev. & Mac. Ry. and Canal cases, 88, 95, 96, 97, 98;

The Caledonia Ry. Co. *v.* The North Brit. Ry. Co., 3 *ib.*, 56, 62;

Great North. Ry. Co. of Ireland *v.* The Belfast Ry. Co., 3 *ib.*, 411, 418;

Same *v.* Same, 4 Brown & Mac. Ry. and Canal cases, 159.

*3rd. Whatever construction may be put upon the Interstate Commerce Act, or any language heretofore used in any opinion in this court, the particular order of the commission in question in the case at bar was authorized and legal.*

In the case at bar the railroad company itself had fixed a rate which it maintained for years, and then suddenly increased the rate 33⅓ per cent. and fixed another rate that much higher. The Florida Railroad Commission

complained to the Interstate Commerce Commission on behalf of the people interested, and alleged that the whole advance was unreasonable, and, in fact, that the rate ought to have been less than the original rate. The appellant alleged that the whole advance was reasonable. The Florida Commission asked that appellant be prohibited from further violating the Act to Regulate Commerce in the premises and for reparation. The whole substance of the litigation before the Interstate Commission was how much of an advance between two rates fixed by the railroad company itself was unjust and unreasonable. It is submitted that the matter was clearly within the jurisdiction or authority of the commission to hear and determine, and the commission finding the facts to be as it did find, that one-half the advance was reasonable, and one-half was unreasonable and excessive, there was no order that the commission could properly make, other than the order which it did make, that the defendant desist from charging more than the old rate with the portion of the advance found reasonable added.

The portion of the order requiring reparation is not directly before this court in this appeal, but it affords some test of the meaning of the statute. How was the commission to award reparation as the statute authorized them to do without deciding how much of the advanced rate was reasonable and how much was unreasonable, and ordering the excess refunded, as they did.

## III.

**The Act to Regulate Commerce is constitutional in its provisions.**

There was no objection before the commission as to any unconstitutionality of any of the provisions of the act, and no objection on constitutional grounds was

made in either of the courts below, except the objection made in the Circuit Court, that the provision for allowing a counsel fee for complainant's counsel was unconstitutional, and this objection was expressly withdrawn and waived in writing and in open court in the Circuit Court of Appeals. No objection, therefore, on constitutional grounds will be considered here if any should be attempted to be made, and for that reason, as well as because the constitutionality of the act in all respects seems so clear and well settled under the decisions of this court, it is not deemed necessary to consume much space in discussing it. In fact, the subject would not be mentioned at all, were it not that a late decision in the United States Circuit Court for the Southern District of Ohio has been supposed by some persons in some vague and indefinite way to question the constitutionality of the act.

The Interstate Commerce Commission *v.* The Cincinnati, New Orleans & Tex. Pac. Ry. Co. *et al*, pamph.

That a State legislature may properly vest powers to regulate rates of transportation in a commission has been expressly decided by this court in several cases. In the Railroad Commission cases, the point that the statute attempted to confer legislative and judicial powers was expressly made, and was overruled by this court, and in Reagan *v.* Farmers' Loan and Trust Co., the constitutionality of such legislation was again affirmed in the strongest and clearest language.

Railroad Commission Cases, 116 U. S., 307, 324, 336;

Reagan *v.* Farmers' Loan and Trust Co., 154 U. S.

That Congress has not less power in such a matter as to interstate commerce than a State legislature has as to its internal commerce hardly seems to require discus-

sion. This court has so often decided that the Constitution vests in Congress the power and discretion to choose the means and create the instruments through which it exercises its powers, that it is certainly not necessary to multiply citations on that subject.

McCulloch *v.* Maryland, 4 Wheat., 421.

Any idea that such a statute authorizing a commission to regulate rates is unconstitutional, as interfering with contracts, is already wholly disposed of by the said decisions of this court concerning railroad commissions.

It is also to be borne in mind that there is no such prohibition upon Congress, in respect of legislation incidentally affecting contracts, as there is upon the States.

Mitchell *v.* Clark, 110 U. S., 643.

In fact, the constitutionality of the act has been recognized in effect by this court in several cases which have come before it, namely, the Party Rates case, the Social Circle case, and the Import Rate case.

145 U. S., 263;
162 U. S., 184;
*Ib.*, 197.

It was so expressly held by Justice Jackson.

Kentucky & Indiana Bridge Co. *v.* L. & N. R. R. Co., 37 Fed. Rep., 567, 613.

## IV.

**This court will not consider the assignment of error concerning the allowance of counsel fee, and there was no error therein.**

The counsel fee allowed by the Circuit Court for complainant's counsel was authorized by the 16th section of the act to regulate commerce.

After appellant applied for and obtained an order in

the Circuit Court allowing its appeal, and without any levy or other proceeding under the decree to collect said counsel fee, appellant of its own accord paid said fee. (Rec., 272, 273.)

No appeal lies concerning said money so paid.

Little *v.* Bowers, 134 U. S., 547;
Sing. Man. Co. *v.* Wright, 141 U. S., 696.

So the alleged error is only that the master and the court below allowed too large a fee. That is a matter as to which this court will not review the exercise of discretion by the court below on the evidence.

Trustees *v.* Greenough, 105 U. S., 527, 537;
Stuart *v.* Boulware, 133 U. S., 78.

But, in fact, the fee was reasonable and just, it was recommended by the master, and the court found it sustained by the evidence and the opinion of the experts in the case. The reasonableness of the allowance, it is submitted, is manifest, when all the circumstances of the case are considered—the novelty of the proceeding; the amount involved, 5 cents per box on a million or more of boxes per annum for the then current year and the years to come; the exceedingly difficult character of the case; the question whether a transportation rate from one section of the country to another far distant, by rail and water, being as difficult, involved, and far-reaching in its considerations, and as hard to prove and maintain a solution of as can come to a lawyer; the great amount and intricate character of the evidence, and the great study and labor required to analyze and master the evidence (much of which is of a technical character), and to deduce and present to the master and to the court below the proper deductions therefrom. (Rec., 266, 221, 226.)

The same considerations and objections apply to the assignment of error concerning master's fees.

## V.

**The only remaining assignments of error amount to no more than a general assignment that the court below erred in their decision on the facts of the case, which this court will not consider, and neither will it go into a consideration and review of the facts, but in fact there was no error.**

No error can be assigned on a general finding.

Meath *v.* Miss. Levee Comrs., 109 U. S., 268;
Tioga R. R. Co. *v.* Blossburg, etc., R. Co., 20 Wall, 138.

So this court has held recently in both the Social Circle case and the Import case, that it will not go into a review of the evidence or the findings of fact of the commission or courts below thereon.

162 U. S., 184, 197.

If, however, the court should see fit to go into such facts and findings, a consideration of the same, and of the exceptions to the master's report, will show that there was no error therein.

The exceptions to the master's report on which the assignments of error as to findings of fact are based are found in the Record original or marginal pages 483–487. The first exception is that the master erred in finding that the rates complained of were unjust, unreasonable, excessive, and unlawful.

NOTE.—All the following references to the Record in this brief are to the original or marginal pages.

But there was no error or mistake in these findings of the commission, the master, and the court below. We

submit that not only were they clearly in accordance with the weight of evidence, but that there was really no evidence which would support any contrary conclusion.

In the first place, the increase in rates complained of was against the opinion, judgment, and decision of the traffic managers and general freight agents of the transportation lines themselves, and the advance was voted down when proposed to them.

See Findings of Commission, Record, 38;

Testimony A. C. Knapp, Traffic Manager Ga., South. and Fla. R. R., Record, 319, 20;

Testimony James Colhoun, Gen'l Freight Agent Jack., Tampa and Key West Ry. and Fla. South. Ry., Record, 327, 328, 329;

Testimony C. D. Owens, Traffic Manager of Plant system, including Savannah, Fla. and Western Ry., Record, 235.

The rates which were in effect immediately before the advance of rates which was complained of had continued in force for five years, being continued by the transportation lines from year to year by yearly agreements among themselves. These rates had been voluntarily established and continued by the carriers, and had been in force for years upon a large and staple commodity and business, the amount of freight furnished by which had not decreased, but had greatly increased, and there being no changes in the character of the commodity, the character of the business, or the character of the transportation. The presidents of the transportation lines, overruling the traffic managers and freight agents, suddenly advanced the rates 33⅓ per cent. So great an advance on long-established rates on a staple article is without a precedent or a parallel in the history of transportation

lines in this country, and it is submitted that it carries its own condemnation on its face.

Decision Interstate Com., Record, 56, 37, 38, 40, 42;
Master's Report, 478, 469, 472, 473, 477;
Testimony A. M. Ives, 336, 344;
Testimony of Knapp, Colhoun, above cited;
Testimony of Papy, 164, 167;
Bates *v.* Penn. Ry. Co., 3 Interstate Com. Rep., 435;
*In re* Rates on Food Products, 4 Annual Rep. In. Com. Commission, 96.

It is to be borne in mind that the findings of the Interstate Commerce Commission, by the terms of the statute, established *prima facie* the complainant's case. Not only, it is confidently submitted, is there no sufficient showing in evidence introduced by defendants below before the master to overthrow and reverse this case, but there is really no showing at all against it. The findings and conclusions of the master are so full and clear and so manifestly sustained by the evidence that it is not deemed necessary to review all the testimony in detail, and only a few salient points will be noted herein.

There were no facts whatever put in evidence by the defendants below showing that the maximum rate allowed by the commission was or would be unremunerative. Nor was there any evidence of anything in the financial condition of said defendants justifying any such increase as that complained of.

Master's Report, 480;
Decision Commission, 53, 54, 56.

Considered on the basis of mileage, of rates per ton per mile, of comparison of these rates with other rates, of the character of service performed and its value, the character of the articles transported and their value, the quantity and value of the business, tested by any and

all considerations by which the character of rates are determined, the rates complained of are unreasonable, unjust, and excessive.

See Master's Report, 475, 476, 478, 479, 480;
Decision of Commission, 51, 53, 54, 55, 56.

The S. F. & W. Ry. Co., under the old rate (5 cents per box less than maximum allowed by commission) received 1.88 cents per ton per mile for carrying oranges, and the average cost of carrying freight of all classes over this road per ton per mile was .965 of a cent. Deducting the latter from the former, there is left .915 of a cent as the excess of rate per ton per mile over cost of general transportation. Under the rate on oranges complained of said railway company receives 2.7 cents per ton per mile, and there is left 1.745 cents as the excess over cost of transportation in general.

Master's Rep., 475, 476; Decision of Interstate Com., 53.

The rate on oranges from California to northeastern cities (say San Francisco to New York City) is only 7½ mills per ton per mile.

Decision Interstate Com., 41.

The local rate on oranges of the Jacksonville, Tampa and Key West Railway from Sanford to Jacksonville, a distance of 125 miles, is 10 cents per box, or 12½ cents per 100 pounds, equal to 2 cents per ton per mile, or 6 mills per ton per mile less than the exaction of the Savannah, Florida and Western as its portion of a through rate from Florida to New York. It is true that this rate of the Jacksonville, Tampa and Key West is in competition with water lines, but the rate of the Savannah, Florida and Western is supposed to be in competition with water lines (Clyde line from Jacksonville and Mallory line from Fernandina), and is not a local but part of a through

rate, which latter should, of course, be lower than a local rate, instead of higher, as in this case.

Testimony of Colhoun, 330.

So also the excessiveness of the rates exacted by defendants below on oranges is shown by comparison with rates on bananas in car-load lots from Port Tampa to Cincinnati or Ohio River destined to Chicago. By the short route, *via* Jesup and Chattanooga, 1,075 miles, the same distance as from Jacksonville to New York, and 115 miles being over the Savannah, Florida and Western, the rate is 45 cents per 100 pounds, or .84 cents per ton per mile. By the long line, *via* Bainbridge and Montgomery, 1,240 miles, the rate is also 45 cents per 100 pounds, or .73 cents per ton per mile. Of this route 216 miles is over the Savannah, Florida and Western. That road, therefore, for its share of this through rate on bananas accepts 8.4 *mills* per ton per mile by the short line and 6.9 *mills* per ton per mile by the long line, while it exacts 2.6 *cents* per ton per mile of the through rate on oranges from Jacksonville to New York.

See Rate Sheets on Bananas, 67–70;
Testimony Ives, 400–401.

These rates, considered as through rates, are excessive compared with through rates generally prevailing on railroads throughout the country and compared with the standards of through rates established by the decisions of the Interstate Commerce Commission.

Oranges are worth no more, weight for weight, than flour, if as much; they are no more difficult to handle, except as to flour in barrels, that a barrel will roll and a box will not; no more care appears to be taken of them by railroads, other than the use of cars with grated holes for ventilation; they are shipped released, so if they are perishable that merely makes them a less valuable commodity to the owner, but does not in fact affect the trans-

portation line. That the rates complained of are far in excess of rates fixed by the Interstate Commerce Commission as reasonable rates on flour.

See Evans *v.* Oregon Ry., 1 In. Com. Rep., 325;
Report Interstate Com. Commission on Rates on Food Products, 4 Annual Rep., 96.

So apples from New York to Jacksonville by this line of Savannah Florida and Western Railway Company and Ocean Steamship Company, of Savannah, are 18 cents per hundred pounds, or 27 cents per barrel. So cabbages and potatoes are 18 cents per hundred pounds, and flour is 25 cents per barrel of 200 pounds, while the advanced rate charged on oranges was 40 cents per standard box of 80 pounds, or 50 cents per 100 pounds.

Testimony of Sinclair, 394.

It is to be noted that all the facilities for transportation of oranges were in effect under the old rates; the only additions claimed to have been made since were the addition of one steamship to the fleet, which was required to accommodate the general business of the line, and the addition of some improved and ventilated freight cars, also for the accommodation of general business and for transporting the watermelon and vegetable crops of Georgia and Florida and general freights, and such as all first-class railroads in the country are now equipping themselves with for their general freight purposes.

Decision Commission, 56;
Master's Rep., 477;
Testimony of Aveilhe, 128, 131;
Testimony of Maxwell, 395;
Testimony of Ives, 343.

The warm storage in New York was put in as an advertisement and facility that would increase the orange business of this line, and the shippers were assured that

there should be no increased charges on account of it. It did, in fact, largely increase the business of the line.

Testimony of Ives, 349;
Testimony of Waters, Gen'l Manager, A. C. Line, 274.

The alleged special expedition of transportation by the "perishable" train 208, or otherwise, is chiefly imaginary, and does not in fact exist.

The defendants below make no contracts with shippers to transport oranges in any given time, and publish no schedule therefor.

Testimony of Aveilhe, 120, 121.

Their so-called perishable train only makes 12½ miles per hour, which is only ordinary freight time, and not half as fast as the "perishable" train of the Florida Central and Peninsular Railroad.

Master's Rep., 469;
Testimony of Hutchens, 108;
Testimony of Pennington, 171.

Said so-called "perishable" train does not make close connection with any regularity, or even generally, with the steamships.

Testimony of Hutchens, 109–111;
See Exhibit B, 451–454.

Said train is not exclusively for oranges, but takes any kind of freight, including raw hides, in the same cars with oranges.

Testimony Hutchens, 112, 113;
Testimony Sinclair, 390–393;
Testimony of Ives, 343.

The cars which carry oranges to Savannah return to Jacksonville, to a large extent, loaded with freight from the North.

Decision Int. Com. Commission, 43;
Decision of Commission on petition for rehearing, 297;
Testimony Ives, 343.

The 2d exception to the master's report is, in substance, that certain alleged specific findings of the master and his general findings in conclusion are inconsistent. There is, in fact, no such inconsistency, the supposed inconsistency being based on an entire mistake and misapprehension in all material matters of what the master did find.

The master does not find that the rate prior to the increased rate complained of was not remunerative, and that it was reduced originally as a war rate, and retained afterwards on account of the freeze, etc. He states that such was the contention of the defendants, but he finds the contrary.

Master's Rep., 469–478.

The 3d exception, it is submitted, is immaterial, trivial, and also has no basis upon the actual findings of the report.

The 4th exception amounts only to a repetition of the objection that the master erred on the whole case in finding that the rates complained of were unreasonable and excessive, and it is entirely disposed of by the master's report itself, the decisions of the commission, and the evidence, which, as fully as time and space will permit, have been hereinbefore cited and discussed.

The finding of the master objected to in the 5th exception is clearly in accordance with all the evidence. While the risk to the individual grower of loss of crop is considerable, the freightage of the whole crop is as certain as that of any other crop.

See Master's Rep., 472, 473, 474;
Decision of Commission, 40.

The 6th exception, also, is based on a mistake and misapprehension of the master's findings. The master did not find that the division of the through rate should not affect the question of reasonableness or unreasonableness

of the rate as an entirety; but, on the contrary, he held that the division would affect the question if "such an unequal division was made as to render the entire rate an unreasonable one."

Master's Rep., 476–7.

The fact that the Savannah, Florida and Western exacted a rate for its rail portion of the line much in excess of what its milage proportion of the through line, on the usual basis of calculation in such divisions of one mile of rail for three miles of water, would entitle it to, the necessary tendency of which was to unduly increase the total through rate and render the same excessive, was a proper matter for consideration with all the other facts of the case in determining whether the total through rate was excessive.

Master's Rep., 475–477;
Decision Interstate Com. Commission, 53;
Decision Commission on rehearing, 299, 300;
Testimony of Maxwell, 201.

The seventh and eighth exceptions to the master's report may be considered together, and it is submitted are wholly untenable. Cost of transportation of freight in general and profit thereon is certainly one matter for consideration and comparison in determining whether the charge for any single article is reasonable or unreasonable, and the master considered it only in this way and to this extent, and duly considered all differences.

Master's Rep., 475, 469–471.

It must be remembered that the rate allowed to defendants by the commission and sustained by the master is very much greater than the average rates charged by the defendants on freights in general, and that very liberal allowances have been made for all matters favorable to said defendants concerning the transportation of oranges.

As to the ninth exception, it also is based on a mistaken recital therein of what the master did, and in consideration of the facts of the case, the exception is of no consequence.

The master did not refuse "to take into consideration the claims for damages made on shipments of fruits as against similar losses on dead freights." He did consider these matters and found thereon in accordance with the evidence "the fact that claims are interposed by shippers and paid for loss, breakage, and theft of oranges en route is of no more significance than similar claims upon other classes of freights. It appears that oranges are shipped released, and that no contract is made for delivery within a specified time at point of destination. Deterioration by delays in transportation are not considered. This loss falls upon the shipper." Amounts of losses paid in proportion to amount of business are trivial.

Master's Rep., 479–480;
Decision Commission;
Decision of Commission on Rehearing, 305;
Testimony of Bruyn, 145–149.

The 10th and 11th exceptions to the master's report in effect cover the whole case, and have been considered hereinbefore as fully as space will permit. It is submitted that there was no error in the finding of the master that the rates charged in excess of those allowed by the commission were not justified.

The 12th exception to the master's report is "that the master erred in placing the value of services of complainant's solicitor at five thousand dollars." This has been already disposed of in this brief, as has the 13th exception to the master's fees.

C. M. Cooper,
*Counsel for Appellee.*

C. M. Cooper
Counsel for Appellee

NOV 7 1898
JAMES H. McKENNEY

167-512

14

IN THE

# Supreme Court of the United States

OCTOBER TERM, 1898.

THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY, APPELLANT,

vs.

THE FLORIDA FRUIT EXCHANGE, APPELLEE.

## SUPPLEMENTAL BRIEF FOR APPELLANT.

C. M. COOPER,
Counsel for Appellant.

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C.

IN THE

# Supreme Court of the United States.

OCTOBER TERM, 1896.

---

THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY, APPELLANT,

*vs.*

THE FLORIDA FRUIT EXCHANGE, APPELLEE.

---

## SUPPLEMENTAL BRIEF FOR APPELLEE.

---

### I.

**The Order of the Commission was Made in Accordance with the Law. Evidence was Taken and Reduced to Writing Before Three Commissioners. There was no Oral Argument, but the Case was Submitted to the Commission on Briefs and the Written Evidence. The Only Objection Made in the Answer in the Circuit Court and Appellant's Brief Here was that All the Commissioners were Not Present when the Testimony was Taken, and this was Abandoned in the Assignment of Errors Filed in the Appeal to this Court.**

Objection is made in appellant's brief here, although not in the assignment of errors filed in the record under the

statute and the rule on which this appeal was taken, that all the Commissioners who participated in making the orders in the case were not present at the taking of the testimony and its reduction to writing, and, as is alleged, that one member of the Interstate Commerce Commission who was present at the taking of said testimony had died and one had resigned before the decision and order of the Commission in the case were made. It will be noted that there is no objection made by appellant in its answer in the circuit court or in the brief here that there was any argument in Jacksonville or before members of the Commission who did not participate in the decision, and not before members of the Commission who did participate in the decision, and there would have been no fact on which to base any such objection, as in fact there was no hearing in Jacksonville other than the taking of the testimony, which was taken down and reduced to writing, and there was no argument or final submission of the cause except by the briefs filed with the whole Commission and all members thereof in Washington by all parties in the case and on the written evidence.

The objection as to all Commissioners not being present at the taking of testimony was made in the answer in the circuit court (Record, pp. 43–44). It is there admitted that the evidence was taken down and reduced to writing, and the objection is limited to the matter of Commissioners not being present at the taking of the testimony, and the objection is so expressly limited in appellant's brief here (Appellant's Brief, p. 43). The authenticity and official perpetuation in writing of the testimony taken before the Commissioners is also recognized in the agreement of

counsel on pages 47–48 of the Record, and it is there stated that the witnesses were examined on March 30 and 31, 1891, at Jacksonville, Florida, before certain members of the Commission. The copy of decision of the Commission, in the Record, on pages 5 and 6, notes that the case was heard at Jacksonville March 30 and 31, 1891, and briefs were filed April 16 to July 28, 1891. It is manifest from all the statements of the record that the hearing at Jacksonville was only the taking of testimony, and it is so admitted by the appellant in its answer in the circuit court and its brief here, as aforesaid; nor does the record show any argument of the cause other than the filing of briefs, as noted in the record as aforesaid, and the hearing on application for rehearing before the Commission on January 19, 1892, on additional briefs and affidavits filed, upon which the previous order was affirmed. (Record, p. 157.)

Counsel for appellee was asked by a member of the court, during oral argument, whether the proceedings at Jacksonville, beside the taking of testimony, included any oral argument of the cause, and counsel not having had any occasion to refresh his memory on that subject, of a transaction which occurred over five years before, no objection ever having been made anywhere as to all the Commissioners not having heard or received and considered whatever argument there was in the case, and the objection as to all of them not having been present at the taking of testimony having been abandoned in the assignment of errors in the Record, counsel, under a mistaken impression upon his mind at the moment that some oral argument had been begun before the Commissioners, and then oral argument had been abandoned and the cause

submitted on briefs to be filed, replied to the inquiry accordingly; but counsel, having refreshed his memory by examining the record of the Interstate Commerce Commission, now clearly recollects that there was no argument at Jacksonville of the case, but counsel for all parties agreed, and the Commission thereupon ordered, that the case be submitted on briefs to be filed within limited times after counsel should have been furnished, from the report of the stenographer of the Commission, with copies of the evidence there taken, counsel thus agreeing to submit the case on briefs and the evidence as taken down in writing. In correction of the inadvertent and mistaken oral statement of counsel, a copy of that part of the proceedings from the record of the Interstate Commerce Commission is given as follows:

THE RAILROAD COMMISSION OF FLORIDA

*vs.*

THE SAVANNAH, FLORIDA AND WESTERN RAILWAY COMPANY *et al.*

*Before the Interstate Commerce Commission.*

It appears by the record that the proceedings at Jacksonville, Florida, March 30–31, 1891, were opened as follows:

"The CHAIRMAN: Gentlemen, we are here this morning for the purpose of taking evidence in some complaints made against various railroads in this section of the country. Parties having charge of these cases will please let us know which one they desire to take up first.

"(After consideration it was decided to take up the 'Orange case' first.)"

The concluding portion of the record of such hearing is as follows:

"The CHAIRMAN: Well, I suppose we are all through now. What course will you take in the case now?

"Mr. COOPER: In this matter, may it please your honors, I will proceed according to the pleasure of the Commission. I am entirely ready to argue the matter orally, or, if you would prefer, I will file a written brief. I could file a printed brief within a limited time.

"Mr. LOGAN: We are content with that.

"The CHAIRMAN: That, perhaps, then, would be the better plan to adopt. You gentlemen may agree among yourselves as to what length of time you will take.

"(After consultation, counsel agreed that the plaintiff should have thirty days within which to file his brief after the receipt of the testimony from the stenographer, and that the defendants should have thirty days from that time to file their answer, and then, if the plaintiff's counsel so desired, he should have fifteen days within which to file a reply to the defendants' brief.)"

INTERSTATE COMMERCE COMMISSION,
WASHINGTON, D. C.

I, Edward A. Moseley, Secretary of the Interstate Commerce Commission, do hereby certify that the paper hereto attached is a true copy of the original record now on file with this Commission.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the Commission this sixth day of November, 1896.

[SEAL.] EDW. A. MOSELEY, *Secretary.*

So the question made by answer in the circuit court and appellant's brief here (if the court determines to consider it in spite of the fact that it was abandoned in the assignments of error) is simply whether the fact that a quorum of the Commission, as composed when its decision was rendered on the evidence as taken down in writing before certain of the Commissioners and the briefs filed with the Commission, were not the same persons who were present at the taking of the testimony invalidates the order. It is submitted that this objection is fully answered and refuted by the express provisions of the statute itself as well as by the general principles of law.

Section 11 of the Act to regulate commerce provides that "No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission."

Section 12 (amended March 2, 1889, and February 10, 1891) provides for taking testimony by depositions.

Section 13 provides, where complaint is filed against a carrier, "If such carrier shall not satisfy the complaint

within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of *in such manner and by such means as it shall deem proper.*"

Section 17 (amended March 2, 1889) provides that "a majority of the Commission shall constitute a quorum for the transaction of business."

And that "either of the members of the Commission may administer oaths and affirmations and sign subpœnas."

Section 18 provides for paying expenses of Commissioners in making investigations at places other than Washington.

Section 19 provides that "*it may, by one or more of the Commissioners,* prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this act."

It is submitted that the foregoing citations from the statute clearly show that the Commission may, by one or more of its members, take testimony in any part of the United States, and cause the testimony to be reduced to writing for the consideration and action of any quorum of the Commission, as is done daily in courts of chancery on testimony taken before examiners.

The case at bar, however, is still stronger, for the evidence was taken before a quorum of the Commission and reduced to writing, and the case was thereafter submitted on briefs filed with the whole Commission, including all the members who participated in any subsequent action.

The proceedings in this case would have been regular

and sufficient in any court and are in full accord with the statute, but it is to be borne in mind that the Commission is not a court, but an administrative body; that its proceedings are only required to afford reasonable or substantial investigation or hearing; that its findings make but a *prima facie* case, and have to be enforced through the courts where a defendant has the right to go over the whole case again; and that in the case at bar the defendant did open up the whole case, and much of the testimony taken before the Commission was put in evidence before the master and court, as was a great deal of new evidence, and defendant had full hearing on it all before the courts.

So if there is any lack of fullness in the showing of the record as to what occurred, this Court will presume that the Commission acted regularly and properly and it would require positive affirmative showing to establish the contrary, as the presumptions are all in favor of the action of the officers.

Even in courts changes in the persons of judges do not change the court or generally alter their proceedings. Judges change, but the court is the same and generally proceeds as though there had been no change of person. A familiar example is that a judge who never sat on the trial often settles and signs the bill of exceptions.

It is submitted also that this objection as well as the objection to refusal to grant supersedeas ought not to be considered, having been abandoned and not included in the assignment of errors in accordance with the statute and clause 4 of rule 21 of this Court.

See Record, 285, 286.

## II.

**The Objection Made that the Circuit Court Refused to Order a Supersedeas was also Abandoned in the Assignment of Errors in the Record. There was, however, no Error in the Refusal of Supersedeas; but even if such Refusal was Erroneous, it has no Place and can have no Effect in this Appeal.**

We submit that it is a sufficient answer to the objection that the circuit court refused to grant a supersedeas; that the statute expressly declares that an appeal in such case shall not operate as a supersedeas. The prohibition of supersedeas is not limited to any portion of the order, but none of the order, no portion thereof, nor any writ or process thereon can be superseded or stayed by appeal, according to the express terms of the statute, and the judge of the circuit court could not have granted a supersedeas of the decree or any portion thereof without violating the statute.

Act to Regulate Commerce, sec. 16.

This provision of the act is not affected by the act giving jurisdiction to the court of appeals. That merely changed the appellate court to which such appeal goes in the first instance, but did not change any provision concerning practice on appeal or effect of appeal. Such would be the rule under general law, but it so expressly provided in the appellate court's act, section 11.

But suppose the judge of the circuit court ought to have granted a supersedeas; what possible place or effect could that have in this appeal? The refusal to grant supersedeas

was no part of the decree appealed from, but was a separate, subsequent matter. Either the decree was erroneous or it was not. If it was not erroneous it cannot be reversed because of a subsequent refusal to grant a supersedeas; if it was erroneous the error must be within the decree itself, and the question of whether or not the circuit court should have granted a supersedeas pending an appeal to the circuit court of appeals cannot affect the decree and is of no consequence in this appeal in any event.

The only effect of a supersedeas would have been to stay the operation of the decree or some part thereof until the hearing of the appeal. The appeal has now been finally heard, and whether or not the decree ought to have been superseded in the meantime is no longer a living question, and can have no effect whatever on the decision of this Court or upon the decree appealed from. If appellant was entitled to a supersedeas pending the appeal, and the granting of it was not altogether within the discretion of the circuit court, if grantable at all, then he should have applied to the appellate court for proper orders to give him his supersedeas during the pendency of the appeal; but the question cuts no figure in the final decision on the appeal on the decree.

C. M. COOPER,
*Counsel for Appellee.*

C. M. Cooper
Counsel for Appellee

Q. 167
167-572
167-474

NOV 23 1899
JAMES H. MCKENNEY

# Before the United States Circuit C

## FOR THE SOUTHERN DISTRICT OF OHIO.

---

INTERSTATE COMMERCE COMMISSION

*vs.*

THE CINCINNATI, NEW ORLEANS & TEXAS PACIFIC RY. CO.

---

THE SHINKLE, WILSON & KREIS CO. ET AL.

*vs.*

LOUISVILLE & NASHVILLE R. R. CO. ET AL.

---

COMPLAINTS OF THE FREIGHT BUREAU OF THE CINCINNATI CHA
COMMERCE AND THE CHICAGO FREIGHT BUREAU
THE INTERSTATE COMMERCE COMMISSION.

---

## OPINION OF THE COURT.

---

JOHN P. MORTON & COMPANY, LOUISVILLE, KY.

BEFORE THE

# UNITED STATES CIRCUIT COURT

FOR THE SOUTHERN DISTRICT OF OHIO.

---

INTERSTATE COMMERCE COMMISSION

*vs.*

THE CINCINNATI, NEW ORLEANS & TEXAS PACIFIC RAILWAY CO. ET AL.

---

THE SHINKLE, WILSON & KERNS CO. ET AL.

*vs.*

LOUISVILLE & NASHVILLE R. R. CO. ET AL.

---

*Complaints of the Freight Bureau of the Cincinnati Chamber of Commerce and the Chicago Freight Bureau, before the Interstate Commerce Commission.*

---

## OPINION OF THE COURT.

1. THE R[illegible] PRESCRIBE MAXIMUM RATES FOR THE TR[illegible]ON OF FREIGHT:

The right to prescribe maximum rates for the transportation of freight is the right to dictate an indispensable and one of the most important terms of the contract between the carrier and the shipper.

2. SAME.

As a legislative right it has been so long and so generally recognized as to be beyond question; and it results from the corporate existence of the common carrier, or from some public relation to any and all who may come [illegible] freighters or passengers.

[illegible] SAME.

It can hardly be said to be within the recognised limits [illegible] the exercise of judicial right or power; because while a [illegible] of equity may enforce specific performance of a con[illegible] or correct mutual mistakes in it, it never makes a con[illegible]

[illegible] THE INTERSTATE COMMERCE COMMISSION.

The Interstate Commerce Commission is not invested, [illegible] not be invested, under the Constitution, with either [illegible] power or purely judicial power. Its functions are [illegible] restricted to the performance of administrative [illegible] with such quasi judicial powers as are incidental and [illegible] to the proper performance of those duties.

[illegible] RIGHT OF THE COMMISSION TO FIX RATES.

[illegible] not an incidental right. It is not a right or power [illegible] by implication or construction from general [illegible] in the first or other sections of the Act to regulate [illegible] nor can it be imported into the Act by reference [illegible] of the necessities of the case. If found at all, [illegible] found in express and specific language, among the [illegible] granted in direct terms, and there is no [illegible] in the Act.

[illegible] SAME.

[illegible] Commission to fix rates was denied by [illegible] New Orleans & Texas [illegible] The Interstate Commerce

unjustly discriminate, so as to give undue preference [illegible] advantage to persons or traffic similarly circumstanced [illegible] Act to regulate commerce leaves common carriers [illegible] were at the common law, free to make special contracts [illegible] ing to the increase of their business, to classify their [illegible] to adjust and apportion their rates so as to meet the [illegible] ties of commerce, and generally to manage their [illegible] interests upon the same principles which are regarded as sound, and adopted in other trades and pursuits.

8. CASES CITED:

Cinn., N. O. & Tex. Pac. Ry. Co. v. I. C. C., 162 U. S. 184-197.
Texas Pacific Ry. Co. v. I. C. C., 162 U. S. 197-255.
I. C. C. v. L. & N. R. R. Co., 73 Fed. Rep. 409-420.
I. C. C. v. N. E. R. R. Co., 74 Fed. Rep. 70-73.
I. C. C. v. Alabama Midland Ry. Co. *et al.*, 69 Fed. Rep. 227-233; 74 Fed. Rep. 715-733.
I. C. C. v. Lehigh Valley R. R. Co., 74 Fed. Rep. [illegible]*

* Headnotes approved by Judge Sage.

GEORGE F. EDMUNDS, } For Petitioner.
HARLAND CLEVELAND, }

EDWARD COLSTON, } For Defendants.
ED. BAXTER, }

Hon. George R. Sage delivered the opinion of the [illegible]

The right of the Interstate Commerce Commission [illegible] prescribe maximum rates for the transportation [illegible] was assumed by the Commission, is contended [illegible] counsel, and is essential to their case. It is the [illegible] tate an indispensable and one of the most [illegible] the contract between the carrier and the [illegible] legislative right, so long and so generally [illegible]

beyond question, it results from the corporate existence of the common carrier, or from his *quasi* public relation to any and all who may come to him as freighters or passengers, and it is generally limited to fixing maximum rates, although [illegible] it might be extended to include—what is probably [illegible] important—minimum rates. It can hardly be said to be within the recognized limits of the exercise of judicial right or power, because while a court of equity may enforce specific performance of a contract, or rescind it, or correct mutual mistakes in it, it never makes a contract. The Interstate Commerce Commission is not invested, and can not be invested, under the Constitution, with either legislative power or purely judicial power. Its functions are necessarily restricted to the performance of administrative duties, [illegible] such *quasi* judicial powers as are incidental and necessary to the proper performance of those duties. This is a [illegible] which does not in the slightest depend upon the [illegible] morally, socially, intellectually or officially, of the [illegible] members of the Commission, which was emphasized in the argument. The right claimed is not an incident of right. It is not a right or power to be derived by [illegible] or by construction from general phrases in the [illegible] other sections of the act, nor can it be imported into [illegible] by reference to or by reason of the necessities of the [illegible] If found at all, it must be found in express and [illegible] language, among the powers and rights granted in [illegible] and there is no such language in the Act.

[illegible] of the Commission to fix rates was denied by [illegible] Court in the Cincinnati, New Orleans & Texas [illegible] Co. v. the Interstate Commerce Commission, [illegible] known as the Social Circle Case. The Su[illegible] declared:

"Whether Congress intended to confer [illegible] Interstate Commerce Commission the power [illegible] fix rates was mooted in the courts below, and [illegible] cussed in the briefs of counsel.

"We do not find any provision of the Act [illegible] expressly or by necessary implication confers such [illegible] power.

"It was urged on behalf of the Commission [illegible] power to pass upon the reasonableness of [illegible] rates implies a right to prescribe rates. This [illegible] necessarily so. The reasonableness of the [illegible] given case, depends on the facts, and the [illegible] the Commission is to consider these [illegible] them their proper weight. If the Commission [illegible] of withholding judgment in such a [illegible] issue shall be made and the facts found [illegible] rate, that rate is prejudged by the Commission [illegible] reasonable."

Upon the expression in the first paragraph [illegible] "the power to itself fix rates" and the expression [illegible] fixes a rate" in the last paragraph quoted, [illegible] Commission contend that the Supreme Court [illegible] the exercise by the Commission of a power [illegible] rates in advance of "issue made and a finding [illegible] or in other words, as said by the Supreme Court [illegible] Pacific Railway Co. v. Interstate Commerce Commission, 162 U. S. 197, known as "Import case" a power [illegible] "of its own motion and without a hearing of [illegible] be affected." What the Supreme Court [illegible] Import case was the order of the Commission [illegible] rate on certain foreign traffic [illegible] rate on domestic traffic of the same [illegible] than 268 cents per 100 pounds, [illegible] order fixed the rate for the time being at [illegible]

however, ignore the distinction that there the order in effect only provided that there should be no discrimination in rates against domestic traffic, leaving the Railway Company at perfect liberty to change rates at pleasure, provided that if there should be a lowering of rates for the foreign freight there should be a corresponding reduction as to the domestic freight, and *vice versa;* while here a fixed maximum rate was prescribed which could be exceeded only upon subsequent order by the Commission. The contention based upon the use by the Supreme Court of the phrase already quoted is too narrow and technical. That no such limitation upon its opinion was intended is made perfectly plain by the concluding paragraphs, which are immediately after the paragraphs above quoted, and are as follows:

> "We prefer to adopt the view expressed by the late Justice Jackson, when Circuit Judge, in the case of the Interstate Commerce Commission v. Baltimore & Ohio Railroad Co. (43 Fed. Rep. 37), and whose judgment was affirmed by this Court (145 U. S. 263):
>
> "Subject to the two leading prohibitions that their charges shall not be unjust or unreasonable, and that they shall not unjustly discriminate, so as to give undue preference or disadvantage to persons or traffic similarly circumstanced, the Act to regulate commerce leaves common carriers as they were at the common law, free to make special contracts looking to the increase of their business, to classify their traffic, to adjust and apportion their rates so as to meet the necessities of commerce, and generally to manage their important interests upon the same principles which are regarded as sound, and adopted in other trades and pursuits."

This construction of the law has been followed by Judge Clark in Interstate Commerce Commission v. Louisville & Nashville R. R. Co., 73 Fed. Rep. 409;—by Judge Acheson in Same v. Lehigh Valley R. R. Co., Pamphlet Report;—by Judge Simonton in Same v. Northeastern R. R. Co., 74 Fed. Rep. 70;—and by Judge Bruce in Same v. Alabama Midland R. R. Co. *et al.*, 69 Fed. Rep. 227, and 74 Fed. Rep. 715-733.

This Court adopts the language of Judge Acheson in Interstate Commerce Commission v. Lehigh Valley R. R. Co., cited above.

> "These views of the Supreme Court decisively show that the Interstate Commerce Commission is not clothed with the power to fix rates which it undertook to exercise in this case."

The Social Circle Case being decisive and controlling, it is not necessary nor would it be profitable to enter upon the discussion whether the rates fixed by the Commission are reasonable.

The petition will be dismissed with costs.

UNITED STATES CIRCUIT COURT,
SOUTHERN DISTRICT OF OHIO,
WESTERN DIVISION.

THE SHINKLE, WILSON & KREIS CO. *et al.*,

*vs.*

LOUISVILLE & NASHVILLE R. R. CO. *et al.*

This case involves precisely the questions and considerations disposed of in Interstate Commerce Commission v. The Cincinnati, New Orleans & Texas Pacific Railway Co. *et al.*, and the decree will be in accordance with the opinion in that case.

| | Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1: Cash value of land and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | 2: Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | 3: Cars, carriages, and vehicles of all kinds. | 4: Merchandise or stock in trade. | 5: Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | 6: Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Sq. No. 172 | | Gravier, Camp, Commercial place, and St. Charles. | | | | | | | | | |
| 2 | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | |
| 4 | | | | | | | | | | | | |
| 5 | *List of Shareholders* | *of Citizens' Bank of La. for* | | 1891. | | | | | | | | |
| 6 | Adams, Jno. I. | | | | | | | | | | | 12 |
| 7 | Anderson, Mrs. E. C. | | | | | | | | | | | 1 |
| 8 | Abascal, M. | | | | | | | | | | | 34⅜ |
| 9 | Avigno, J. N. | | | | | | | | | | | 27 |
| 10 | Benson, G. | | | | | | | | | | | 11 |
| 11 | Brandt, G. | | | | | | | | | | | 7½ |
| 12 | Bagnall, Mrs. A | | | | | | | | | | | 4 |
| 13 | Beard, Max C | | | | | | | | | | | 3 |
| 14 | Bofinger, W. H. | | | | | | | | | | | 15 |
| 15 | Bornio, M., Sr | | | | | | | | | | | 21 |
| 16 | Blaffer, G. A. | | | | | | | | | | | 15 |
| 17 | Beard, Stuart M. | | | | | | | | | | | 3 |
| 18 | Bradley, J | | | | | | | | | | | 1⅜ |
| 19 | Bier, Henry | | | | | | | | | | | 12 |
| 20 | Boucher, H. C. | | | | | | | | | | | 35 |
| 21 | Beaufort de, J. B. | | | | | | | | | | | 47 |
| 22 | Beaufort de, J. F. | | | | | | | | | | | 24 |
| 23 | Bloch, S. | | | | | | | | | | | 51 |
| 24 | Bradshaw, G. G. | | | | | | | | | | | 2 |
| 25 | Bechet, A. A. | | | | | | | | | | | 19 |
| 26 | Boland, Mrs. A. M. | | | | | | | | | | | 2 |
| 27 | Benton, Jas. | | | | | | | | | | | 30 |
| 28 | Booth, Geo. W. | | | | | | | | | | | 20 |
| 29 | Bryant & Mathers | | | | | | | | | | | 50 |
| 30 | Chaffraix, D. A | | | | | | | | | | | 235 |
| 31 | Carroll, Mrs. S. H. | | | | | | | | | | | 40 |
| 32 | Charnock, H. | | | | | | | | | | | 11 |
| 33 | Curtius, H. | | | | | | | | | | | 7⅛ |
| 34 | Cammack, Mrs. M. G. | | | | | | | | | | | 20 |
| 35 | Cofield, J. C. | | | | | | | | | | | 82 |
| 36 | Conner, H. W. | | | | | | | | | | | 1⅛ |
| 37 | Cazayoux, J. B. | | | | | | | | | | | 70 |
| 38 | Carey, R. | | | | | | | | | | | 25 |
| 39 | Cammack, R. C | | | | | | | | | | | 20 |
| 40 | Claiborne, F. | | | | | | | | | | | 45 |
| 41 | Davey, Jno. C. | | | | | | | | | | | 17⅛ |
| 42 | Day, Jas. I. | | | | | | | | | | | 27 |
| 43 | Delbondio, E. F. | | | | | | | | | | | 13 |
| 44 | | | | | | | | | | | | |

TAXATION.

| | the domicile of the bank or banking association. | 7 Value of each share. | Total value of shares of stock in said association. | 8 Household goods, furniture exceeding $500 in value, including books and all movable property and chattels. | 9 Household ornaments, such as statuary, paintings, and works of art. | 10 Jewelry, watches, silverware or plated ware, diamonds, and all other precious stones. | 11 Cash value of stock or interest in all steamboats, steamships, ships, and all other water craft in or out of the State. | 12 Trackage within this parish of railroads within this State or partly within this and another State. | 13 All machinery and appurtenances, locomotive and all other motive power. | 14 Judgments, suits, and causes in action. | 15 Franchises, patents, copyrights, trade-marks, privileges, and charters, all canals and other ways of communication. | 16 Bonds of all kinds, specifying each kind and their value. | 17 All other articles or things possessing any money value, including oyster beds planted up to 30th of November last. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | |
| 3 | | | 1,000 92 | | | | | | | | | | |
| 4 | | 90 91 | 90 91 | | | | | | | | | | |
| 5 | | | 3,151 54 | | | | | | | | | | |
| 6 | | | 2,454 57 | | | | | | | | | | |
| 7 | | | 1,000 01 | | | | | | | | | | |
| 8 | | | 666 67 | | | | | | | | | | |
| 9 | | | 363 64 | | | | | | | | | | |
| 10 | | | 272 73 | | | | | | | | | | |
| 11 | | | 1,363 65 | | | | | | | | | | |
| 12 | | | 1,910 11 | | | | | | | | | | |
| 13 | | | 1,363 65 | | | | | | | | | | |
| 14 | | | 272 73 | | | | | | | | | | |
| 15 | | | 151 51 | | | | | | | | | | |
| 16 | | | 1,090 92 | | | | | | | | | | |
| 17 | | | 3,181 85 | | | | | | | | | | |
| 18 | | | 4,272 77 | | | | | | | | | | |
| 19 | | | 2,181 84 | | | | | | | | | | |
| 20 | | | 4,636 41 | | | | | | | | | | |
| 21 | | | 181 82 | | | | | | | | | | |
| 22 | | | 1,727 29 | | | | | | | | | | |
| 23 | | | 181 82 | | | | | | | | | | |
| 24 | | | 2,727 30 | | | | | | | | | | |
| 25 | | | 1,818 20 | | | | | | | | | | |
| 26 | | | 4,545 50 | | | | | | | | | | |
| 27 | | | 21,363 85 | | | | | | | | | | |
| 28 | | | 3,636 40 | | | | | | | | | | |
| 29 | | | 1,000 01 | | | | | | | | | | |
| 30 | | | 666 67 | | | | | | | | | | |
| 31 | | | 1,818 20 | | | | | | | | | | |
| 32 | | | 8,454 02 | | | | | | | | | | |
| 33 | | | 112 21 | | | | | | | | | | |
| 34 | | | 6,363 70 | | | | | | | | | | |
| 35 | | | 2,272 75 | | | | | | | | | | |
| 36 | | | 1,818 20 | | | | | | | | | | |
| 37 | | | 4,090 95 | | | | | | | | | | |
| 38 | | | 1,606 07 | | | | | | | | | | |
| 39 | | | 2,454 57 | | | | | | | | | | |
| 40 | | | 1,181 83 | | | | | | | | | | |
| 41 | | | | | | | | | | | | | |
| 42 | | | | | | | | | | | | | |
| 43 | | | | | | | | | | | | | |
| 44 | | | | | | | | | | | | | |
| | | | Total. | | | | | | | | | | |
| | | | State tax of 6 mills. | | | | | | | | | | |
| | | | Levee tax of 1 mill. | | | | | | | | | | |

LIST OF SHAREHOLDERS CITIZENS' BANK OF LA.

M. J. C., *Att'y Gen'l*; R.



| | Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1 | 2 | 3 | 4 | 5 | 6 | 7 | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | Cars, carriages, and vehicles of all kinds. | Merchandise or stock in trade. | Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. | |
| 1 | Sq. No. 172 | | Camp, St. Charles, Gravier, and Commercial place. | | | | | | | | | | |
| 10 | *List of Shareholders of Citizens' Bank of La. for* | | | 1892. | | | | | | | | | |
| 13 | Adams, John I. | | | | | | | | | | | 12 | $8 |
| 14 | Anderson, Mrs. E. C. | | | | | | | | | | | | |
| 15 | Abascal, M. | | | | | | | | | | | 8 | |
| 16 | Brandt, G. | | | | | | | | | | | 7¼ | |
| 17 | Benson, Geo. | | | | | | | | | | | 11 | |
| 18 | Bagnall, Mrs. A | | | | | | | | | | | 4 | |
| 19 | Beard, Stuart M. | | | | | | | | | | | 3 | |
| 20 | Boucher, H. C. | | | | | | | | | | | 42 | |
| 21 | Beaufort de, J. B. | | | | | | | | | | | 47 | |
| 22 | " " J. F. | | | | | | | | | | | 24 | |
| 23 | Bradshaw, G. G. | | | | | | | | | | | 2 | |
| 24 | Blanc, Jules A. | | | | | | | | | | | 95 | |
| 25 | Blaise, Peter | | | | | | | | | | | 35 | |
| 26 | Bryant & Mathers | | | | | | | | | | | 50 | |
| 27 | Boebinger, John | | | | | | | | | | | 10 | |
| 28 | Brunet, J. F. | | | | | | | | | | | 20 | |
| 29 | Beauregard, G. T. | | | | | | | | | | | 40 | |
| 30 | Baker, Marion A. | | | | | | | | | | | 25 | |
| 31 | Bernard, V. G. | | | | | | | | | | | 4 | |
| 32 | Chaffraix, D. A | | | | | | | | | | | 235 | |
| 33 | Charnock, H. | | | | | | | | | | | 11 | |
| 34 | Curtius, Est. H | | | | | | | | | | | 7¼ | |
| 35 | Cammack, Mrs. M. G. | | | | | | | | | | | 20 | |
| 36 | Cazayoux, J. B. | | | | | | | | | | | 50 | |
| 37 | Cammack, R. C | | | | | | | | | | | 20 | |
| 38 | Claiborne, F. | | | | | | | | | | | 31 | |
| 39 | Claverie, J. | | | | | | | | | | | 5 | |
| 40 | Donovan, Mrs. J. | | | | | | | | | | | 13 | |
| 41 | Ducloux, E. F | | | | | | | | | | | 2 | |
| 42 | Desmarais, P. | | | | | | | | | | | 20 | |
| 43 | Domecq, Mrs. A | | | | | | | | | | | 9 | |

A. FOR 1892, 4TH ASS'M'T DIST., SQ. 172, 134 GRAVIER ST.

R. L., E A. O'S., *City Att'y.*

OLL FOR THE PARISH OF ORLEANS. 

| | | TAXATION. | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 7 | | | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | | | | |
| | Value of each share. | Total value of shares of stock in said association. | Household goods, furniture exceeding $500 in value, including books and all movable property and chattels. | Household ornaments, such as statuary, paintings, and works of art. | Jewelry, watches, silverware or plated ware, diamonds, and all other precious stones. | Cash value of stock or interest in all steamboats, steamships, ships, and all other water craft in or out of the State. | Trackage within this parish of railroads within this State or partly within this and another State. | All machinery and appurtenances, locomotive and all other motive power. | Judgments, suits, and causes in action. | Franchises, patents, copyrights, trade-marks, privileges, and charters, all canals and other ways of communication. | Bonds of all kinds, specifying each kind and their value. | All other articles or things possessing any money value, including oyster beds planted up to 30th of November last. | Total. | State tax of 6 mills. | Levee tax of 1 mill. | |
| | $89 58 | 1,074 96 | | | | | | | | | | | | | | 1 |
| | ..... | 89 58 | | | | | | | | | | | | | | 2 |
| | .... .. | 716 44 | | | | | | | | | | | | | | 3 |
| | ..... | 676 92 | | | | | | | | | | | | | | 4 |
| | ..... | 985 38 | | | | | | | | | | | | | | 5 |
| | ..... | 358 32 | | | | | | | | | | | | | | 6 |
| | ..... | 268 74 | | | | | | | | | | | | | | 7 |
| | ..... | 3,762 36 | | | | | | | | | | | | | | 8 |
| | ..... | 4,210 26 | | | | | | | | | | | | | | 9 |
| | ..... | 2,149 92 | | | | | | | | | | | | | | 10 |
| | ..... | 179 16 | | | | | | | | | | | | | | 11 |
| | ..... | 8,510 10 | | | | | | | | | | | | | | 12 |
| | ... .... | 3,135 30 | | | | | | | | | | | | | | 13 |
| | ..... | 4,479 | | | | | | | | | | | | | | 14 |
| | ..... | 895 80 | | | | | | | | | | | | | | 15 |
| | ..... | 1,791 60 | | | | | | | | | | | | | | 16 |
| | ..... | 3,583 20 | | | | | | | | | | | | | | 17 |
| | ..... | 2,239 50 | | | | | | | | | | | | | | 18 |
| | ..... | 358 32 | | | | | | | | | | | | | | 19 |
| | ..... | 21,051 30 | | | | | | | | | | | | | | 20 |
| | ..... | 985 38 | | | | | | | | | | | | | | 21 |
| | ..... | 676 92 | | | | | | | | | | | | | | 22 |
| | ..... | 1.791 60 | | | | | | | | | | | | | | 23 |
| | ..... | 4,479 | | | | | | | | | | | | | | 24 |
| | ..... | 1,791 60 | | | | | | | | | | | | | | 25 |
| | ..... | 2,776 98 | | | | | | | | | | | | | | 26 |
| | ..... | 447 90 | | | | | | | | | | | | | | 27 |
| | ..... | 1,164 54 | | | | | | | | | | | | | | 28 |
| | ..... | 179 16 | | | | | | | | | | | | | | 29 |
| | ..... | 1,791 60 | | | | | | | | | | | | | | 30 |
| | ..... | 806 22 | | | | | | | | | | | | | | 31 |
| | | | | | | | | | | | | | | | | 32 |
| | | | | | | | | | | | | | | | | 33 |
| | | | | | | | | | | | | | | | | 34 |
| | | | | | | | | | | | | | | | | 35 |
| | | | | | | | | | | | | | | | | 36 |
| | | | | | | | | | | | | | | | | 37 |
| | | | | | | | | | | | | | | | | 38 |
| | | | | | | | | | | | | | | | | 39 |
| | | | | | | | | | | | | | | | | 40 |
| | | | | | | | | | | | | | | | | 41 |
| | | | | | | | | | | | | | | | | 42 |
| | | | | | | | | | | | | | | | | 43 |
| | | | | | | | | | | | | | | | | 44 |

| | Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | Cars, carriages, and vehicles of all kinds. | Merchandise or stock in trade. | Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. |
| 1 | *Citizens' Bank of* | *La. Continued for* 1892. | | | | | | | | | | |
| 2 | Davey, R. C., *et als* | | | | | | | | | | | 17 |
| 3 | Daponte, H. | | | | | | | | | | | 5 |
| 4 | Doistre, A. S. | | | | | | | | | | | 4 |
| 5 | Desforges and Jung | | | | | | | | | | | 25 |
| 6 | Egle, John | | | | | | | | | | | 100 |
| 7 | Frederick, H. A. | | | | | | | | | | | 25 |
| 8 | Foley, T. | | | | | | | | | | | 34 |
| 9 | Fornaris, S. V. | | | | | | | | | | | 17 |
| 10 | Fitzpatrick, J. | | | | | | | | | | | 25 |
| 11 | Fell, John R. | | | | | | | | | | | 3 |
| 12 | Fabacher, L. | | | | | | | | | | | 10 |
| 13 | Faget, L. | | | | | | | | | | | 5 |
| 14 | Gunther, F. J. D. | | | | | | | | | | | 7 |
| 15 | Germania Nat'l bank | | | | | | | | | | | 4 |
| 16 | Gilmore, J. C. | | | | | | | | | | | 4 |
| 17 | Gumbel, S. | | | | | | | | | | | 4 |
| 18 | Godchaux, Chas. | | | | | | | | | | | 40 |
| 19 | Guiraud, Mrs. A. V. | | | | | | | | | | | 10 |
| 20 | Gehl, H. | | | | | | | | | | | 21 |
| 21 | Hanan, Mrs. S. R. | | | | | | | | | | | 7 |
| 22 | Harrell, A. J. | | | | | | | | | | | 17 |
| 23 | Harper, Mrs. H. S. | | | | | | | | | | | 11 |
| 24 | Hassinger, J. | | | | | | | | | | | 30 |
| 25 | Hanlon, M. | | | | | | | | | | | 21 |
| 26 | Henderson, Misses | | | | | | | | | | | 3⅓ |
| 27 | Hirsch, Mrs. S. | | | | | | | | | | | 17 |
| 28 | Hayem, A. | | | | | | | | | | | 3⅓ |
| 29 | Hein, Isaac | | | | | | | | | | | 13 |
| 30 | Huger, W. E. | | | | | | | | | | | 80 |
| 31 | Heine, Mrs. M. A. | | | | | | | | | | | 1 |
| 32 | Henry, B. W. | | | | | | | | | | | 5 |
| 33 | Hernandez, Chas. | | | | | | | | | | | 76 |
| 34 | Ingersoll, Mrs. M. | | | | | | | | | | | 4 |
| 35 | Joy, P. M. | | | | | | | | | | | 3⅓ |
| 36 | James, Mrs. L. G. | | | | | | | | | | | 17 |
| 37 | Johnson, B. | | | | | | | | | | | 10 |
| 38 | Jannet, E. | | | | | | | | | | | 3 |
| 39 | Johnson, F., and Son | | | | | | | | | | | 50 |
| 40 | Klock, Mrs. E. O. | | | | | | | | | | | 1 |
| 41 | Keller, L. F. | | | | | | | | | | | 20 |
| 42 | Konig, L. A. | | | | | | | | | | | 20 |
| 43 | Kohn, A. | | | | | | | | | | | 1 |
| 44 | | | | | | | | | | | | |

TAXATION.

| | of banking association. | 7 | Value of each share. | Total value of shares of stock in said association. | 8 | Household goods, furniture exceeding $500 in value, including books and all movable property and chattels. | 9 | Household ornaments, such as statuary, paintings, and works of art. | 10 | Jewelry, watches, silverware or plated ware, diamonds, and all other precious stones. | 11 | Cash value of stock or interest in all steamboats, steamships, ships, and all other water craft in or out of the State. | 12 | Trackage within this parish of railroads within this State or partly within this and another State. | 13 | All machinery and appurtenances, locomotive and all other motive power. | 14 | Judgments, suits, and causes in action. | 15 | Franchises, patents, copyrights, trade-marks, privileges, and charters, all canals and other ways of communication. | 16 | Bonds of all kinds, specifying each kind and their value. | 17 | All other articles or things possessing any money value, including oyster beds planted up to 30th of November last. | | Total. | | State tax of 6 mills. | | Levee tax of 1 mill. | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | | | 89 58 | 1,522 86 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 | | | ..... | 447 90 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 | | | ..... | 358 32 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 | | | ..... | 2,239 50 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | | | ..... | 8,958 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 | | | ..... | 2,239 50 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 | | | ..... | 3,045 72 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 | | | ..... | 1,522 86 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 9 | | | ..... | 2,239 50 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 10 | | | ..... | 268 74 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 11 | | | ..... | 805 80 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 12 | | | ..... | 447 90 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 13 | | | ..... | 627 06 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 14 | | | ..... | 358 32 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 15 | | | ..... | 358 32 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 16 | | | ..... | 358 32 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 17 | | | ..... | 3,583 20 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 18 | | | ..... | 895 80 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 19 | | | ..... | 1,881 18 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 20 | | | ..... | 627 06 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 21 | | | ..... | 1,522 86 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 22 | | | ..... | 985 38 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 23 | | | ..... | 2,687 40 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 24 | | | ..... | 1,881 18 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 25 | | | ..... | 298 60 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 26 | | | ..... | 1,522 86 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 27 | | | ..... | 298 60 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 28 | | | ..... | 1,164 54 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 29 | | | ..... | 7,166 40 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 30 | | | ..... | 89 58 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 31 | | | ..... | 447 90 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 32 | | | ..... | 6,808 08 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 33 | | | ..... | 358 32 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 34 | | | ..... | 1,522 86 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 35 | | | ..... | 298 60 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 36 | | | ..... | 895 80 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 37 | | | ..... | 268 74 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 38 | | | ..... | 4,479 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 39 | | | ..... | 89 58 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 40 | | | ..... | 1,791 60 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 41 | | | ..... | 1,791 60 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 42 | | | 89 58 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 43 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 44 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| | Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1 — Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | 2 — Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | 3 — Cars, carriages, and vehicles of all kinds. | 4 — Merchandise or stock in trade. | 5 — Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | 6 — Money in possession, on deposit, or in hand. | 7 — Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | *List — Shareholders* | *Citizens' Bank of La.*, 1892. | | | | | | | | | | |
| 2 | Kohn, G | | | | | | | | | | | |
| 3 | Kearney, J. Watts | | | | | | | | | | | 1 |
| 4 | Lelong, A. A | | | | | | | | | | | 5 |
| 5 | Lewis, Dr. J. H | | | | | | | | | | | 29⅔ |
| 6 | Lipscomb, W. C | | | | | | | | | | | 29 |
| 7 | Layster, Mrs. S. A | | | | | | | | | | | 5 |
| 8 | Lewis, Est. A. S | | | | | | | | | | | 5 |
| 9 | Languelles, Mrs. J. F | | | | | | | | | | | 11 |
| 10 | Lewis, Dr. G. W | | | | | | | | | | | 5 |
| 11 | Lapeyre, A | | | | | | | | | | | 5 |
| 12 | Lewis, S. F | | | | | | | | | | | 7⅓ |
| 13 | Lee, F. A., & Co | | | | | | | | | | | 7 |
| 14 | Legendre, H., & Co | | | | | | | | | | | 5 |
| 15 | Laroussini, H | | | | | | | | | | | 144 |
| 16 | Lesassier, G | | | | | | | | | | | 167 |
| 17 | Lynd, T. B | | | | | | | | | | | 50 |
| 18 | Lampton, J. S | | | | | | | | | | | 18 |
| 19 | Laroussini, U., Jr | | | | | | | | | | | 10 |
| 20 | " U | | | | | | | | | | | 10 |
| 21 | Lombard, J | | | | | | | | | | | 50 |
| 22 | Lyons, I. L., & Co | | | | | | | | | | | 50 |
| 23 | McLellan, A | | | | | | | | | | | 25 |
| 24 | Milliken, R | | | | | | | | | | | 35 |
| 25 | Miltengerger, C. W., ag't | | | | | | | | | | | 50 |
| 26 | Manson, G. H | | | | | | | | | | | 4 |
| 27 | Morgan's La. & T. R. R. & S. S. Co | | | | | | | | | | | 19 |
| 28 | Mulvihill, Mrs. J | | | | | | | | | | | 119 |
| 29 | Marx, S. E | | | | | | | | | | | 3 |
| 30 | Martin, T | | | | | | | | | | | 50 |
| 31 | Marcus, S. H | | | | | | | | | | | 10 |
| 32 | Manson, J. J | | | | | | | | | | | 10 |
| 33 | McGuire, J. P | | | | | | | | | | | 50 |
| 34 | Michel, P., Jr | | | | | | | | | | | 5 |
| 35 | Meyer, Julius | | | | | | | | | | | 18 |
| 36 | McQuaid, Mrs. M. L | | | | | | | | | | | 15 |
| 37 | Manson, Rob | | | | | | | | | | | 10 |
| 38 | Neugass, H | | | | | | | | | | | 3 |
| 39 | Nott, G. W | | | | | | | | | | | 15 |
| 40 | Newman, J | | | | | | | | | | | 30 |
| 41 | Noyes, J. W | | | | | | | | | | | 65 |
| 42 | Newman, Isadore, Sr | | | | | | | | | | | 15 |
| 43 | O'Connor, J. H | | | | | | | | | | | 135 |
| 44 | | | | | | | | | | | | 23 |

## PARISH OF ORLEANS—CONTINUED.

| | 7 | | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | or banking association. | | | | | | | | | | | | | | | |
| 1 | | | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | | | | |
| 4 | | | | | | | | | | | | | | | | |
| 5 | | | | | | | | | | | | | | | | |
| 6 | | | | | | | | | | | | | | | | |
| 7 | | | | | | | | | | | | | | | | |
| 8 | | | | | | | | | | | | | | | | |
| 9 | | | | | | | | | | | | | | | | |
| 10 | | | | | | | | | | | | | | | | |
| 11 | | | | | | | | | | | | | | | | |
| 12 | | | | | | | | | | | | | | | | |
| 13 | | | | | | | | | | | | | | | | |
| 14 | | | | | | | | | | | | | | | | |
| 15 | | | | | | | | | | | | | | | | |
| 16 | | | | | | | | | | | | | | | | |
| 17 | | | | | | | | | | | | | | | | |
| 18 | | | | | | | | | | | | | | | | |
| 19 | | | | | | | | | | | | | | | | |
| 20 | | | | | | | | | | | | | | | | |
| 21 | | | | | | | | | | | | | | | | |
| 22 | | | | | | | | | | | | | | | | |
| 23 | | | | | | | | | | | | | | | | |
| 24 | | | | | | | | | | | | | | | | |
| 25 | | | | | | | | | | | | | | | | |
| 26 | | | | | | | | | | | | | | | | |
| 27 | | | | | | | | | | | | | | | | |
| 28 | | | | | | | | | | | | | | | | |
| 29 | | | | | | | | | | | | | | | | |
| 30 | | | | | | | | | | | | | | | | |
| 31 | | | | | | | | | | | | | | | | |
| 32 | | | | | | | | | | | | | | | | |
| 33 | | | | | | | | | | | | | | | | |
| 34 | | | | | | | | | | | | | | | | |
| 35 | | | | | | | | | | | | | | | | |
| 36 | | | | | | | | | | | | | | | | |
| 37 | | | | | | | | | | | | | | | | |
| 38 | | | | | | | | | | | | | | | | |
| 39 | | | | | | | | | | | | | | | | |
| 40 | | | | | | | | | | | | | | | | |
| 41 | | | | | | | | | | | | | | | | |
| 42 | | | | | | | | | | | | | | | | |
| 43 | | | | | | | | | | | | | | | | |
| 44 | | | | | | | | | | | | | | | | |
| | | $89 58 | | | | | | | | | | | Total. | | | |
| | | 447 90 | | | | | | | | | | | State tax of 6 mills. | | | |
| | | 89 58 | | | | | | | | | | | Levee tax of 1 mill. | | | |
| | | 447 90 | | | | | | | | | | | | | | |
| | | 2,557 54 | | | | | | | | | | | | | | |
| | | 2,597 82 | | | | | | | | | | | | | | |
| | | 447 90 | | | | | | | | | | | | | | |
| | | 447 90 | | | | | | | | | | | | | | |
| | | 986 18 | | | | | | | | | | | | | | |
| | | 447 90 | | | | | | | | | | | | | | |
| | | 447 90 | | | | | | | | | | | | | | |
| | | 676 92 | | | | | | | | | | | | | | |
| | | 627 06 | | | | | | | | | | | | | | |
| | | 447 90 | | | | | | | | | | | | | | |
| | | 12,899 52 | | | | | | | | | | | | | | |
| | | 14,959 86 | | | | | | | | | | | | | | |
| | | 4,479 | | | | | | | | | | | | | | |
| | | 1,612 44 | | | | | | | | | | | | | | |
| | | 895 80 | | | | | | | | | | | | | | |
| | | 895 80 | | | | | | | | | | | | | | |
| | | 4,479 80 | | | | | | | | | | | | | | |
| | | 4,479 80 | | | | | | | | | | | | | | |
| | | 2,239 50 | | | | | | | | | | | | | | |
| | | 3,135 30 | | | | | | | | | | | | | | |
| | | 4,479 | | | | | | | | | | | | | | |
| | | 558 32 | | | | | | | | | | | | | | |
| | | 1,702 02 | | | | | | | | | | | | | | |
| | | 10,690 02 | | | | | | | | | | | | | | |
| | | 268 74 | | | | | | | | | | | | | | |
| | | 4,479 | | | | | | | | | | | | | | |
| | | 895 80 | | | | | | | | | | | | | | |
| | | 895 80 | | | | | | | | | | | | | | |
| | | 4,479 | | | | | | | | | | | | | | |
| | | 447 90 | | | | | | | | | | | | | | |
| | | 1,612 44 | | | | | | | | | | | | | | |
| | | 1,343 70 | | | | | | | | | | | | | | |
| | | 895 80 | | | | | | | | | | | | | | |
| | | 268 74 | | | | | | | | | | | | | | |
| | | 1,343 70 | | | | | | | | | | | | | | |
| | | 2,687 40 | | | | | | | | | | | | | | |
| | | 5,822 70 | | | | | | | | | | | | | | |
| | | 1,343 70 | | | | | | | | | | | | | | |
| | | 12,093 30 | | | | | | | | | | | | | | |
| | | 2,090 34 | | | | | | | | | | | | | | |

| | Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1 | 2 | 3 | 4 | 5 | 6 | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | Cars, carriages, and vehicles of all kinds. | Merchandise or stock in trade. | Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. | |
| 1 | *List of Shareholders* | *Citizens' Bank of La.*, 1892. | | | | | | | | | | | |
| 2 | Popp, J. F | | | | | | | | | | | | |
| 3 | Pipes, Mrs. A. M. | | | | | | | | | | | 18 | 8 |
| 4 | Peret, P. | | | | | | | | | | | 17 | ... |
| 5 | Prosdame, J. G. | | | | | | | | | | | 10 | ... |
| 6 | Pepin, A. | | | | | | | | | | | 20 | ... |
| 7 | Pfeifer, S | | | | | | | | | | | 10 | ... |
| 8 | Petard, G. | | | | | | | | | | | 38 | ... |
| 9 | Plant, L. | | | | | | | | | | | 10 | ... |
| 10 | Pragst, E. | | | | | | | | | | | 75 | ... |
| 11 | Rodd Bros. & Co. | | | | | | | | | | | 71 | ... |
| 12 | Romain, A. G. | | | | | | | | | | | 7 | ... |
| 13 | Rost, E | | | | | | | | | | | 15 | ... |
| 14 | Roaldez de, A. W. | | | | | | | | | | | 25 | ... |
| 15 | Ramellie, D. | | | | | | | | | | | 50 | ... |
| 16 | Roux, N. P. | | | | | | | | | | | 20 | ... |
| 17 | Safa, P. | | | | | | | | | | | 10 | ... |
| 18 | Seré, L. J. | | | | | | | | | | | 18 | ... |
| 19 | Schmidt and Zeigler | | | | | | | | | | | 1 | ... |
| 20 | Sipiere, P. | | | | | | | | | | | 20 | ... |
| 21 | Sinclair, Miss M. | | | | | | | | | | | 33½ | ... |
| 22 | Steven, Miss J. | | | | | | | | | | | 14 | ... |
| 23 | Senat, B. | | | | | | | | | | | 9 | ... |
| 24 | Stern, H., and Co. | | | | | | | | | | | 15 | ... |
| 25 | Schvartz, L | | | | | | | | | | | 27 | ... |
| 26 | Smith, J. H. | | | | | | | | | | | 10 | ... |
| 27 | Sun Mutual Ins. Co. | | | | | | | | | | | 20 | ... |
| 28 | Stern, H. | | | | | | | | | | | 27 | ... |
| 29 | Simmons, R. W. | | | | | | | | | | | 10 | ... |
| 30 | Schilling, G. T. | | | | | | | | | | | 10 | ... |
| 31 | Simmoneaux, A. J. | | | | | | | | | | | 4 | ... |
| 32 | Torre and Bro., J. | | | | | | | | | | | 10 | ... |
| 33 | Trautman & Co., J. | | | | | | | | | | | 19 | ... |
| 34 | Townsend, G. | | | | | | | | | | | 6¾ | ... |
| 35 | Taylor, Jno. H. H. | | | | | | | | | | | 30 | ... |
| 36 | Tessier, J. | | | | | | | | | | | 20 | ... |
| 37 | Upton, H. E. | | | | | | | | | | | 50 | ... |
| 38 | Vatter, F. | | | | | | | | | | | 5 | ... |
| 39 | Vose, Mrs. F. W. | | | | | | | | | | | 25 | ... |
| 40 | Vix, E. F. | | | | | | | | | | | 16 | ... |
| 41 | Wogan, A. | | | | | | | | | | | 3⅓ | ... |
| 42 | Wolff, Mrs. R. W. | | | | | | | | | | | 4 | ... |
| 43 | Xiques, A. | | | | | | | | | | | 14 | ... |
| 44 | | | | | | | | | | | | 4 | ... |
| | | | | | | | | | | | | 3,802 | |

TAXATION.

| | 7 | Value of each share. | Total value of shares of stock in said association. | 8 | Household goods, furniture exceeding $500 in value, including books and all movable property and chattels. | 9 | Household ornaments, such as statuary, paintings, and works of art. | 10 | Jewelry, watches, silverware or plated ware, diamonds, and all other precious stones. | 11 | Cash value of stock or interest in all steamboats, steamships, ships, and all other water craft in or out of the State. | 12 | Trackage within this parish of railroads within this State or partly within this and another State. | 13 | All machinery and appurtenances, locomotive and all other motive power. | 14 | Judgments, suits, and causes in action. | 15 | Franchises, patents, copyrights, trade-marks, privileges, and charters, all canals and other ways of communication. | 16 | Bonds of all kinds, specifying each kind and their value. | 17 | All other articles or things possessing any money value, including oyster beds planted up to 30th of November last. | Total. | State tax of 6 mills. | Levee tax of 1 mill. | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| = | | 80 58 | 1,612 44 | | | | | | | | | | | | | | | | | | | | | | 1 |
| | | | 1,522 86 | | | | | | | | | | | | | | | | | | | | | | 2 |
| | | | 895 80 | | | | | | | | | | | | | | | | | | | | | | 3 |
| | | | 1,791 60 | | | | | | | | | | | | | | | | | | | | | | 4 |
| | | | 895 80 | | | | | | | | | | | | | | | | | | | | | | 5 |
| | | | 3,404 04 | | | | | | | | | | | | | | | | | | | | | | 6 |
| | | | 895 80 | | | | | | | | | | | | | | | | | | | | | | 7 |
| | | | 6,718 50 | | | | | | | | | | | | | | | | | | | | | | 8 |
| | | | 6,390 18 | | | | | | | | | | | | | | | | | | | | | | 9 |
| | | | 627 06 | | | | | | | | | | | | | | | | | | | | | | 10 |
| | | | 1,343 70 | | | | | | | | | | | | | | | | | | | | | | 11 |
| | | | 2,239 50 | | | | | | | | | | | | | | | | | | | | | | 12 |
| | | | 4,479 | | | | | | | | | | | | | | | | | | | | | | 13 |
| | | | 1,791 60 | | | | | | | | | | | | | | | | | | | | | | 14 |
| | | | 895 80 | | | | | | | | | | | | | | | | | | | | | | 15 |
| | | | 1,612 44 | | | | | | | | | | | | | | | | | | | | | | 16 |
| | | | 89 58 | | | | | | | | | | | | | | | | | | | | | | 17 |
| | | | 1,791 60 | | | | | | | | | | | | | | | | | | | | | | 18 |
| | | | 2,988 | | | | | | | | | | | | | | | | | | | | | | 19 |
| | | | 1,254 12 | | | | | | | | | | | | | | | | | | | | | | 20 |
| | | | 806 22 | | | | | | | | | | | | | | | | | | | | | | 21 |
| | | | 1,343 70 | | | | | | | | | | | | | | | | | | | | | | 22 |
| | | | 2,418 66 | | | | | | | | | | | | | | | | | | | | | | 23 |
| | | | 895 80 | | | | | | | | | | | | | | | | | | | | | | 24 |
| | | | 1,791 60 | | | | | | | | | | | | | | | | | | | | | | 25 |
| | | | 2,418 66 | | | | | | | | | | | | | | | | | | | | | | 26 |
| | | | 895 80 | | | | | | | | | | | | | | | | | | | | | | 27 |
| | | | 895 80 | | | | | | | | | | | | | | | | | | | | | | 28 |
| | | | 358 32 | | | | | | | | | | | | | | | | | | | | | | 29 |
| | | | 895 80 | | | | | | | | | | | | | | | | | | | | | | 30 |
| | | | 1,702 02 | | | | | | | | | | | | | | | | | | | | | | 31 |
| | | | 597 20 | | | | | | | | | | | | | | | | | | | | | | 32 |
| | | | 2,687 40 | | | | | | | | | | | | | | | | | | | | | | 33 |
| | | | 1,791 60 | | | | | | | | | | | | | | | | | | | | | | 34 |
| | | | 4,479 | | | | | | | | | | | | | | | | | | | | | | 35 |
| | | | 447 90 | | | | | | | | | | | | | | | | | | | | | | 36 |
| | | | 2,239 50 | | | | | | | | | | | | | | | | | | | | | | 37 |
| | | | 1,433 68 | | | | | | | | | | | | | | | | | | | | | | 38 |
| | | | 298 60 | | | | | | | | | | | | | | | | | | | | | | 39 |
| | | | 358 32 | | | | | | | | | | | | | | | | | | | | | | 40 |
| | | | 1,254 12 | | | | | | | | | | | | | | | | | | | | | | 41 |
| | | | 358 32 | | | | | | | | | | | | | | | | | | | | | | 42 |
| $240,600 | | | | | | | | | | | | | | | | | | | | | | | | | 43 |
| | | | | | | | | | | | | | | | | | | | | | | | | | 44 |

| | Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1 | 2 | 3 | 4 | 5 | 6 | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | Cars, carriages, and vehicles of all kinds. | Merchandise or stock in trade, | Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, |
| 1 | Sq. No. 172..... | ..... | St. Charles, Camp, Gravier, and Commercial place. | | | | | | | | | |
| 2 | Citizens' Bank of La.... | ..... | Gravier. .... ..... | 13, 14 | 43 5.7 ″″ 118 4 / 90 7.8 / 100 8.7 | 70,000 | | | | | | |
| 3 | Shareholders of Citizens' Bank of La., banking department. | ..... | 134 Gravier, office.. | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 3,8 |

M. J. C., *Att'y Gen'l;* R. L., E. A. O'S., *City Att'y.*

This is to certify
(Signed)

## FOR THE PARISH OF ORLEANS, 1892—CONTINUED.

| | | | |
|---|---|---|---|
| 7 | Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. | | 3,802 |
| | Value of each share. | | $89 58 |
| | Total value of shares of stock in said association. | | 340,600 |
| 8 | Household goods, furniture exceeding $500 in value, including books and all movable property and chattels. | | |
| 9 | Household ornaments, such as statuary, paintings, and works of art. | | |
| 10 | Jewelry, watches, silverware or plated ware, diamonds, and all other precious stones. | | |
| 11 | Cash value of stock or interest in all steamboats, steamships, ships, and all other water craft in or out of the State. | | |
| 12 | Trackage within this parish of railroads within this State or partly within this and another State. | | |
| 13 | All machinery and appurtenances, locomotive and all other motive power. | | |
| 14 | Judgments, suits, and causes in action. | | |
| 15 | Franchises, patents, copyrights, trade-marks, privileges, and charters, all canals and other ways of communication. | | |
| 16 | Bonds of all kinds, specifying each kind and their value. | | |
| 17 | All other articles or things possessing any money value, including oyster beds planted up to 30th of November last. | | |
| | Total. | | |
| | State tax of 6 mills. | | |
| | Levee tax of 1 mill. | | |
| 3 | 2 | 1 | |

OFFICE STATE BOARD OF ASSESSORS, NEW ORLEANS, *May* 3, '94.

I certify that the above is a true and correct extract of the assessment record for the year of 1892 on file in this office.

(Signed) J. M. GLEASON, *Pres't.*

| Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1 | 2 | 3 | 4 | 5 | 6 | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | Cars, carriages, and vehicles of all kinds. | Merchandise or stock in trade, | Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank |
| Sq. 172..... | ..... | Camp, St. Charles, Gravier, and Commercial place. | | | | | | | | | |
| Citizens' Bank of La.... | ..... | Gravier. .... ..... | 13, 14 | 43 5.7 { 118 4 / 90 7.8 / 100 8.7 } | 70,000 | | | | | | |
| Shareholders of Citizens' Bank of La., banking department. | ..... | 134 Gravier St., office. | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 3,802 |

M. J. C., *Att'y Gen'l;* R. L., E. A. O'S., *City Att'y.*

Thi

FOR THE PARISH OF ORLEANS, 1889—CONTINUED.

| | | | |
|---|---|---|---|
| ,802 | | the same being assessed at the domicile of the bank or banking association. | |
| $14 58 | | Value of each share. | 7 |
| $40,258 | | Total value of shares of stock in said association. | |
| | | Household goods, furniture exceeding $500 in value, including books and all movable property and chattels. | 8 |
| | | Household ornaments, such as statuary, paintings, and works of art. | 9 |
| | | Jewelry, watches, silverware or plated ware, diamonds, and all other precious stones. | 10 |
| | | Cash value of stock or interest in all steamboats, steamships, ships, and all other water craft in or out of the State. | 11 |
| | | Trackage within this parish of railroads within this State or partly within this and another State. | 12 |
| | | All machinery and appurtenances, locomotive and all other motive power. | 13 |
| | | Judgments, suits, and causes in action. | 14 |
| | | Franchises, patents, copyrights, trade-marks, privileges, and charters, all canals and other ways of communication. | 15 |
| | | Bonds of all kinds, specifying each kind and their value. | 16 |
| | | All other articles or things possessing any money value, including oyster beds planted up to 30th of November last. | 17 |
| | | Total. | |
| | | State tax of 6 mills. | |
| | | Levee tax of 1 mill. | |

OF TAXATION.

OFFICE STATE BOARD OF ASSESSORS, NEW ORLEANS, *May 3rd*, 1894.

This is to certify that the above is a true and correct extract of the assessment record for the year 1889 on file in this office.

(Signed) J. M. GLEASON, *Pres't.*

| Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1: Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | 2: Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | 3: Cars, carriages, and vehicles of all kinds. | 4: Merchandise or stock in trade. | 5: Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | 6: Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *List Shareholders* | *Citizens' Bank of La.*, 1889. | | | | | | | | | | | |
| Rogers, Mrs. C. A. | | | | | | | | | | | 9 | |
| Rodd Bros. and C. | | | | | | | | | | | 7 | |
| Romain, A. G. | | | | | | | | | | | 15 | |
| Samory, H. | | | | | | | | | | | 69 | |
| Sala, P | | | | | | | | | | | 18 | |
| Sere, L. J. | | | | | | | | | | | 1 | |
| Schmidt and Ziegler. | | | | | | | | | | | 20 | |
| Sipiere, P. | | | | | | | | | | | 33⅓ | |
| Sinclair, Mrs. M. | | | | | | | | | | | 14 | |
| Steven, Mrs. J | | | | | | | | | | | 9 | |
| Schilling, G. T. | | | | | | | | | | | 4 | |
| Sembre, B. | | | | | | | | | | | 4 | |
| Senat, B. | | | | | | | | | | | 15 | |
| Schwartz, M | | | | | | | | | | | 20 | |
| Stern, H., and Co. | | | | | | | | | | | 6⅔ | |
| Schwartz, Louis | | | | | | | | | | | 20 | |
| Tulane, P. | | | | | | | | | | | 22 | |
| Townsend, G. | | | | | | | | | | | 20 | |
| Torre, J., and Bro. | | | | | | | | | | | 19 | |
| Topino, Chas | | | | | | | | | | | 30 | |
| Thomas, S. O. | | | | | | | | | | | 28 | |
| Trautman, J., and Co. | | | | | | | | | | | 6⅔ | |
| Vatter, F. | | | | | | | | | | | 25 | |
| Vose, Mrs. F. W | | | | | | | | | | | 16 | |
| Vix, E. F. | | | | | | | | | | | 3⅓ | |
| Williams, O. H. | | | | | | | | | | | 112 | |
| Wolff, Mrs. R. W. | | | | | | | | | | | 14 | |
| Wogan, A. | | | | | | | | | | | 4 | |
| Walmsley, R. W. | | | | | | | | | | | 27 | |
| Whitney, Mrs. M. L. | | | | | | | | | | | 24 | |
| Weissenbach, H. | | | | | | | | | | | 25 | |
| Wheless, Jno. F. | | | | | | | | | | | 20 | |
| Xiques, A | | | | | | | | | | | 4 | |
| | | | | | | | | | | | 3,802 | |

OF TAXATION.

| | | | |
|---|---|---|---|
| Value of each share. | 7 | $15 88<br>.....<br>.....<br>.....

| Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1 Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | 2 Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | 3 Cars, carriages, and vehicles of all kinds. | 4 Merchandise or stock in trade. | 5 Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | 6 Money in possession, on deposit, or in hand. | 7 Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. | Value of each share. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *List Shareholders* | *Citizens' Bank of La., 1889.* | | | | | | | | | | | |
| Klumpp, H. T., and Co. | | | | | | | | | | | 52 | $15 |
| Klein, Jno., & Co | | | | | | | | | | | 129 | |
| Lelong, A. A | | | | | | | | | | | 27 | |
| Lelong A. A., agent | | | | | | | | | | | 2 | |
| Lewis, Dr. J. H | | | | | | | | | | | 29 | |
| Lipscomb, W. C | | | | | | | | | | | 5 | |
| Layster, Mrs. S. A | | | | | | | | | | | 5 | |
| Lewis, Est. A. S | | | | | | | | | | | 11 | |
| Languille, Mrs. J. F | | | | | | | | | | | 5⅜ | |
| Lloyd, Mrs. M. A | | | | | | | | | | | 13 | |
| Lanata, A | | | | | | | | | | | 9 | |
| Lewis, Dr. G. W | | | | | | | | | | | 5 | |
| Lapeyre, A | | | | | | | | | | | 7½ | |
| Lewis, S. F | | | | | | | | | | | 7 | |
| Legendre, P. H | | | | | | | | | | | 16 | |
| Lee, H | | | | | | | | | | | 26⅔ | |
| Lange, H | | | | | | | | | | | 40 | |
| McLellan, A | | | | | | | | | | | 35 | |
| Milliken, R | | | | | | | | | | | 50 | |
| Miltenberger, C.W., ag't. | | | | | | | | | | | 4½ | |
| Merrill, Mrs. J. S | | | | | | | | | | | 14 | |
| Manson, Geo. H | | | | | | | | | | | 19¾ | |
| Masson, E. F | | | | | | | | | | | 7 | |
| Morgan's La., T. R. R. & S. S. Co | | | | | | | | | | | 119 | |
| Munchow, E | | | | | | | | | | | 4 | |
| Meyer, V. and A., & Co | | | | | | | | | | | 226 | |
| Mysing, W. A | | | | | | | | | | | 10 | |
| Mulvihill, Mrs. J | | | | | | | | | | | 3 | |
| Merilh, E. J | | | | | | | | | | | 15 | |
| Martinez, M. J | | | | | | | | | | | 33⅓ | |
| Marx, A | | | | | | | | | | | 5 | |
| Newgass, B | | | | | | | | | | | 317 | |
| Newgass, H | | | | | | | | | | | 43 | |
| O'Connor, J. H | | | | | | | | | | | 23 | |
| Popp, J. H | | | | | | | | | | | 18 | |
| Pipes, Mrs. A. M | | | | | | | | | | | 17 | |
| Pottier, H | | | | | | | | | | | 25 | |
| Pickens, Mrs. F. H | | | | | | | | | | | 25 | |
| Peret, P | | | | | | | | | | | 20 | |
| Prosdame, J. G | | | | | | | | | | | 3 | |
| Pepin, A | | | | | | | | | | | 10 | |

| 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
|---|---|---|---|---|---|---|---|---|---|---|
| Value of each share. | Household goods, furniture exceeding $500 in value, including books and all movable property and chattels. | Household ornaments, such as statuary, paintings, and works of art. | Jewelry, watches, silverware or plated ware, diamonds, and all other precious stones. | Cash value of stock or interest in all steamboats, steamships, ships, and all other water craft in or out of the State. | Trackage within this parish of railroads within this State or partly within this and another State. | All machinery and appurtenances, locomotive and all other motive power. | Judgments, suits, and causes in action. | Franchises, patents, copyrights, trade-marks, privileges, and charters, all canals and other ways of communication. | Bonds of all kinds, specifying each kind and their value. | All other articles or things possessing any money value, including oyster beds planted up to 30th of November last. |
| $15 88 | | | | | | | | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |
|

| Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1: Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | 2: Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | 3: Cars, carriages, and vehicles of all kinds. | 4: Merchandise or stock in trade. | 5: Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | 6: Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| *List of Shareholders* | *Citizens' Bank of La.*, 1889. | | | | | | | | | | |
| Cammack, R. C. | | | | | | | | | | | 20 |
| Davey, Jno. C. | | | | | | | | | | | 17¼ |
| Day, Jas. I. | | | | | | | | | | | 27 |
| Del Bondio, E. F. | | | | | | | | | | | 13 |
| Donovan, Mrs. J. | | | | | | | | | | | 13 |
| Duclaux, E. F. | | | | | | | | | | | 2 |
| Desmaries, P. | | | | | | | | | | | 20 |
| Delvaille and Son | | | | | | | | | | | 42 |
| Dobbins and Dazey | | | | | | | | | | | 74 |
| Domecq, Mrs. A. | | | | | | | | | | | 19 |
| Edmunds, E. | | | | | | | | | | | 16 |
| Egli, Jno. | | | | | | | | | | | 50 |
| Frederick, H. A. | | | | | | | | | | | 25 |
| Frank, E. | | | | | | | | | | | 12¼ |
| Foley, T. | | | | | | | | | | | 34 |
| Fornaris, S. V., and Co | | | | | | | | | | | 17 |
| Gauche, Emile | | | | | | | | | | | 40 |
| Green, Geo. W. | | | | | | | | | | | 21 |
| Gunther, T. J. D. | | | | | | | | | | | 7 |
| Germania Nat'l bank | | | | | | | | | | | 4 |
| Gilmore, J. C | | | | | | | | | | | 4 |
| Gumbel, S. | | | | | | | | | | | 34 |
| Hanan, Mrs. S. R. | | | | | | | | | | | 7 |
| Harrell, A. J. | | | | | | | | | | | 17 |
| Harper, Mrs. H. S. | | | | | | | | | | | 11 |
| Hassinger, J. | | | | | | | | | | | 30 |
| Hanlon, M. | | | | | | | | | | | 21 |
| Henderson, Mrs. | | | | | | | | | | | 3¾ |
| Hirsch, Mrs. S. | | | | | | | | | | | 17 |
| Hassan, Mrs. J. | | | | | | | | | | | 3 |
| Ingersoll, Mrs. M. | | | | | | | | | | | 4 |
| Hayem, A. | | | | | | | | | | | 3½ |
| Hayward, S. | | | | | | | | | | | 34 |
| Hassan, Mrs. J. | | | | | | | | | | | |
| Joy, P. M. | | | | | | | | | | | 3½ |
| James, Mrs. L. J. | | | | | | | | | | | 17 |
| Johnson, B. | | | | | | | | | | | 10 |
| Kohn, Est. J. | | | | | | | | | | | 3½ |
| Klocke, Mrs. E. O. | | | | | | | | | | | 1 |
| King, B. M. | | | | | | | | | | | 25 |

OF TAXATION.

| or banking association. | | |

| Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1: Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | 2: Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | 3: Cars, carriages, and vehicles of all kinds. | 4: Merchandise or stock in trade. | 5: Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | 6: Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Sq. No. 172 | ..... | Gravier, St. Charles, Camp, and Commercial place. | | | | | | | | | |
| *List of Shareholders* | *Citizens' Bank of La. for* 1889. | | | | | | | | | | |
| Aldige, Jules | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 12 |
| Adams, Jno. I | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 12 |
| Anderson, Mrs. E. C | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 1 |
| Abascal, M | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 34⅔ |
| Avegno, J. N | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 27 |
| Asher, A | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 4 |
| Benson, Geo | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 11 |
| Brandt, Geo | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 7⅓ |
| Bagnall, Mrs. A | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 4 |
| Beard, Max C | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 3 |
| Burbridge, Mrs. V. N | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 34⅔ |
| Bofinger, W. H | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 15 |
| Bornio, M., Sr | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 17 |
| Blaffer, G. A | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 15 |
| Beard, S. M | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 3 |
| Bradley, Jno | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 12⅓ |
| Bornio, M., Jr | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 4 |
| Bier, H'y | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 7⅓ |
| Boucher, H. C | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 35 |
| Beaufort de, J. B | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 47 |
| Beaufort de, J. F | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 24 |
| Bloch, S | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 51 |
| Bradshaw, Geo. J | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 2 |
| Bechêt, A. A | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 19 |
| Boland, Mrs. A. M | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 2 |
| Bush, Louis | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 50 |
| Bush, Louis, & Sons | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 10 |
| Bouis, M. F | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 2 |
| Chaffraix, D. A | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 235 |
| Carroll, Mrs. S. H | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 40 |
| Clapp, Mrs. S. F | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 29 |
| Charnock, H | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 7⅓ |
| Cammack, Mrs. M. G | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 20 |
| Cofield, J. C | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 82 |
| Conners, H. W | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 1⅓ |
| Cier, J. B | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 10 |
| Cazayoux, J. B | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 70 |
| Carey, Rob't | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 25 |
| Chassauiol, E | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 3 |

| the domicile of the bank or banking association. | 7 | Value of each share. | Total value of shares of stock in said association. | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | Total. | State tax of 6 mills. | Levee tax of 1 mill. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | $15 88 | 190 56 | | | | | | | | | | | | | |
| | | | 190 56 | | | | | | | | | | | | | |
| | | | 15 88 | | | | | | | | | | | | | |
| | | | 550 50 | | | | | | | | | | | | | |
| | | | 428 96 | | | | | | | | | | | | | |
| | | | 63 52 | | | | | | | | | | | | | |
| | | | 174 65 | | | | | | | | | | | | | |
| | | | 116 65 | | | | | | | | | | | | | |
| | | | 63 52 | | | | | | | | | | | | | |
| | | | 47 64 | | | | | | | | | | | | | |
| | | | 550 50 | | | | | | | | | | | | | |
| | | | 238 20 | | | | | | | | | | | | | |
| | | | 270 16 | | | | | | | | | | | | | |
| | | | 238 20 | | | | | | | | | | | | | |
| | | | 47 64 | | | | | | | | | | | | | |
| | | | 26 46 | | | | | | | | | | | | | |
| | | | 63 52 | | | | | | | | | | | | | |
| | | | 116 65 | | | | | | | | | | | | | |
| | | | 555 79 | | | | | | | | | | | | | |
| | | | 746 56 | | | | | | | | | | | | | |
| | | | 381 32 | | | | | | | | | | | | | |
| | | | 809 88 | | | | | | | | | | | | | |
| | | | 31 76 | | | | | | | | | | | | | |
| | | | 301 72 | | | | | | | | | | | | | |
| | | | 794 | | | | | | | | | | | | | |
| | | | 31 76 | | | | | | | | | | | | | |
| | | | 158 80 | | | | | | | | | | | | | |
| | | | 31 76 | | | | | | | | | | | | | |
| | | | 3,731 80 | | | | | | | | | | | | | |
| | | | 635 20 | | | | | | | | | | | | | |
| | | | 460 52 | | | | | | | | | | | | | |
| | | | 116 65 | | | | | | | | | | | | | |
| | | | 317 60 | | | | | | | | | | | | | |
| | | | 1,302 16 | | | | | | | | | | | | | |
| | | | 21 17 | | | | | | | | | | | | | |
| | | | 158 80 | | | | | | | | | | | | | |
| | | | 1,111 60 | | | | | | | | | | | | | |
| | | | 387 | | | | | | | | | | | | | |
| | | | 47 64 | | | | | | | | | | | | | |

OF TAXATION.

| Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1 | 2 | 3 | 4 | 5 | 6 | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | Cars, carriages, and vehicles of all kinds. | Merchandise or stock in trade. | Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, |
| Sq. 172..... | ..... | Camp, St. Charles, Gravier, and Commercial place. | | | | | | | | | |
| Citizens' Bank of La..... | ..... | Gravier..... ..... | 13, 14 | 43 5.7 { 118 4 / 90 7.8 / 100 8.7 } | 70,000 | | | | | | |
| Shareholders of Citizens' Bank of La., banking department. | ..... | 134 Gravier St., office. | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 3,8 |

M. J. C., *Att'y Gen'l;* R. L., E. A. O'S., *City Att'y.*

L FOR THE PARISH OF ORLEANS, 1890—CONTINUED.

| OF TAXATION. | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 7 | | | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | | | |
| in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. | Value of each share. | Total value of shares of stock in said association. | Household goods, furniture exceeding $500 in value, including books and all movable property and chattels. | Household ornaments, such as statuary, paintings, and works of art. | Jewelry, watches, silverware or plated ware, diamonds, and all other precious stones. | Cash value of stock or interest in all steamboats, steamships, ships, and all other water craft in or out of the State. | Trackage within this parish of railroads within this State or partly within this and another State. | All machinery and appurtenances, locomotive and all other motive power. | Judgments, suits, and causes in action. | Franchises, patents, copyrights, trade-marks, privileges, and charters, all canals and other ways of communication. | Bonds of all kinds, specifying each kind and their value. | All other articles or things possessing any money value, including oyster beds planted up to 30th of November last. | Total. | State tax of 6 mills. | Levee tax of 1 mill. |
| 3,802 | $15 88 | $55,466 | | | | | | | | | | | | | |

OFFICE STATE BOARD OF ASSESSORS, NEW ORLEANS, *May 3rd*, 1894.

This is to certify that the above is a true and correct extract of the assessment record for the year 1890 on file in this office.

(Signed) J. M. GLEASON, *Pres't.*

| Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1: Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | 2: Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | 3: Cars, carriages, and vehicles of all kinds. | 4: Merchandise or stock in trade. | 5: Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | 6: Money in possession, on deposit, or in hand. | 7: Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| *Citizens' Bank of La. Continued for 1890.* | | | | | | | | | | | |
| Peret, P | | | | | | | | | | | |
| Prosdame, J. G | | | | | | | | | | | 20 |
| Pepin, A | | | | | | | | | | | 3 |
| Rogers, Mrs. C. A | | | | | | | | | | | 10 |
| Rodd Bros. & Co | | | | | | | | | | | 9 |
| Romain, A. G | | | | | | | | | | | 7 |
| Sala, Pablo | | | | | | | | | | | 15 |
| Seré, L. J | | | | | | | | | | | 18 |
| Schmidt and Zeigler | | | | | | | | | | | 1 |
| Sipiere, Paul | | | | | | | | | | | 20 |
| Sinclair, Miss M | | | | | | | | | | | 33⅓ |
| Steven, Miss J | | | | | | | | | | | 14 |
| Schilling, G. T | | | | | | | | | | | 9 |
| Sembre, B | | | | | | | | | | | 4 |
| Serrat, B | | | | | | | | | | | 4 |
| Stern, H., & Co | | | | | | | | | | | 15 |
| Schwartz, L | | | | | | | | | | | 6⅔ |
| Tulane, P | | | | | | | | | | | 20 |
| Torre, J., and Bro | | | | | | | | | | | 22 |
| Toppino, Chas | | | | | | | | | | | 19 |
| Thomas, S. O | | | | | | | | | | | 30 |
| Trautman, I., & Co | | | | | | | | | | | 28 |
| Vatter, F | | | | | | | | | | | 6⅔ |
| Vose, Mrs. F. W | | | | | | | | | | | 25 |
| Vix, E. F | | | | | | | | | | | 16 |
| Williams, O. H | | | | | | | | | | | 3½ |
| Wolff, Mrs. R. W | | | | | | | | | | | 112 |
| Wogan, A | | | | | | | | | | | 14 |
| Walmsley, R. W | | | | | | | | | | | 4 |
| Whitney, Mrs. M. L | | | | | | | | | | | 27 |
| Weissenbach, H | | | | | | | | | | | 24 |
| Xiques, A | | | | | | | | | | | 25 |
| | | | | | | | | | | | 24 |
| | | | | | | | | | | | 3,802 |

OF TAXATION.

| 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
|---|---|---|---|---|---|---|---|---|---|---|
| Value of each share. | Household goods, furniture exceeding $500 in value, including books and all movable property and chattels. | Household ornaments, such as statuary, paintings, and works of art. | Jewelry, watches, silverware or plated ware, diamonds, and all other precious stones. | Cash value of stock or interest in all steamboats, steamships, ships, and all other water craft in or out of the State. | Trackage within this parish of railroads within this State or partly within this and another State. | All machinery and appurtenances, locomotive and all other motive power. | Judgments, suits, and causes in action. | Franchises, patents, copyrights, trade-marks, privileges, and charters, all canals and other ways of communication. | Bonds of all kinds, specifying each kind and their value. | All other articles or things possessing any money value, including oyster beds planted up to 30th of November last. |
| $14 58 | | | | | | | | | | |
| ..... | | | | | | | | | | |
| ..... | | | | | | | | | | |
| .....

| Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | Cars, carriages, and vehicles of all kinds. | Merchandise or stock in trade. | Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. |
| *Citizens' Bank of La. Continued for* 1890. | | | | | | | | | | | |
| King, B. M | | | | | | | | | | | 25 |
| Klumpp, H. F., & Co | | | | | | | | | | | 52 |
| Klein, John, & Co | | | | | | | | | | | 129 |
| Koen, U., & Co | | | | | | | | | | | 22 |
| Lelong, A. A | | | | | | | | | | | 25 1/8 |
| Lewis, Dr. John H | | | | | | | | | | | 29 |
| Lipscomb, W. C | | | | | | | | | | | 5 |
| Layster, Mrs. S. A | | | | | | | | | | | 5 |
| Lewis, Est. A. S | | | | | | | | | | | 11 |
| Languille, Mrs. J. F | | | | | | | | | | | 5 3/8 |
| Lloyd, Mrs. M. A | | | | | | | | | | | 13 |
| Lanata, A | | | | | | | | | | | 9 |
| Lewis, Dr. Geo. W | | | | | | | | | | | 5 |
| Lapeyre, A | | | | | | | | | | | 7 1/8 |
| Lewis, S. F | | | | | | | | | | | 7 |
| Legendre, P. H | | | | | | | | | | | 16 |
| Lee, H | | | | | | | | | | | 20 1/8 |
| Lange, H | | | | | | | | | | | 25 |
| Lee, F. A., & Co | | | | | | | | | | | 3 |
| McLellan, A | | | | | | | | | | | 35 |
| Milliken, R | | | | | | | | | | | 50 |
| Miltenberger, C.W., agent | | | | | | | | | | | 4 1/8 |
| Merril, Miss J. S | | | | | | | | | | | 14 |
| Manson, Geo. H | | | | | | | | | | | 19 3/8 |
| Masson, Eug. F | | | | | | | | | | | 7 |
| Morgan's La. & T. R. R. & S. S. Co | | | | | | | | | | | 119 |
| Munchow, E | | | | | | | | | | | 4 |
| Meyer, V. & A., & Co | | | | | | | | | | | 168 |
| Mysing, W. A | | | | | | | | | | | 38 |
| Mulvihill, Mrs. J | | | | | | | | | | | 3 |
| Merilh, Ed. J | | | | | | | | | | | 15 |
| Martinez, W. J | | | | | | | | | | | 33 1/8 |
| Marx, A | | | | | | | | | | | 5 |
| Meyer, C. J | | | | | | | | | | | 25 |
| Newgass, B | | | | | | | | | | | 317 |
| Neugass, H | | | | | | | | | | | 43 |
| O'Connor, J. H | | | | | | | | | | | 23 |
| Popp, Jno. F | | | | | | | | | | | 18 |
| Pipes, Mrs. A. M | | | | | | | | | | | 17 |
| Pottier, H | | | | | | | | | | | 25 |
| Pickens, Mrs. F. H | | | | | | | | | | | 25 |

| | 7 | | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Value of each share. | Total value of shares of stock in said association. | Household goods, furniture exceeding $500 in value, including books and all movable property and chattels. | Household ornaments, such as statuary, paintings, and works of art. | Jewelry, watches, silverware or plated ware, diamonds, and all other precious stones. | Cash value of stock or interest in all steamboats, steamships, ships, and all other water craft in or out of the State. | Trackage within this parish of railroads within this State or partly within this and another State. | All machinery and appurtenances, locomotive and all other motive power. | Judgments, suits, and causes in action. | Franchises, patents, copyrights, trade-marks, privileges, and charters, all canals and other ways of communication. | Bonds of all kinds, specifying each kind and their value. | All other articles or things possessing any money value, including oyster beds planted up to 30th of November last. | Total. | State tax of 6 mills. | Levee tax of 1 mill. |
| | $14 58 | 364 50 | | | | | | | | | | | | | |
| | | 758 16 | | | | | | | | | | | | | |
| | | 1,880 82 | | | | | | | | | | | | | |
| | | 320 76 | | | | | | | | | | | | | |
| | | 389 36 | | | | | | | | | | | | | |
| | | 422 82 | | | | | | | | | | | | | |
| | | 72 90 | | | | | | | | | | | | | |
| | | 72 90 | | | | | | | | | | | | | |
| | | 160 38 | | | | | | | | | | | | | |
| | | 82 62 | | | | | | | | | | | | | |
| | | 189 32 | | | | | | | | | | | | | |
| | | 131 22 | | | | | | | | | | | | | |
| | | 72 90 | | | | | | | | | | | | | |
| | | 106 92 | | | | | | | | | | | | | |
| | | 102 06 | | | | | | | | | | | | | |
| | | 233 28 | | | | | | | | | | | | | |
| | | 296 46 | | | | | | | | | | | | | |
| | | 364 50 | | | | | | | | | | | | | |
| | | 43 74 | | | | | | | | | | | | | |
| | | 510 30 | | | | | | | | | | | | | |
| | | 720 00 | | | | | | | | | | | | | |
| | | 63 18 | | | | | | | | | | | | | |
| | | 204 12 | | | | | | | | | | | | | |
| | | 286 74 | | | | | | | | | | | | | |
| | | 102 06 | | | | | | | | | | | | | |
| | | 1,735 02 | | | | | | | | | | | | | |
| | | 58 32 | | | | | | | | | | | | | |
| | | 2,449 64 | | | | | | | | | | | | | |
| | | 554 04 | | | | | | | | | | | | | |
| | | 43 74 | | | | | | | | | | | | | |
| | | 218 70 | | | | | | | | | | | | | |
| | | 486 00 | | | | | | | | | | | | | |
| | | 72 90 | | | | | | | | | | | | | |
| | | 364 50 | | | | | | | | | | | | | |
| | | 4,621 86 | | | | | | | | | | | | | |
| | | 625 94 | | | | | | | | | | | | | |
| | | 335 34 | | | | | | | | | | | | | |
| | | 262 44 | | | | | | | | | | | | | |
| | | 247 86 | | | | | | | | | | | | | |
| | | 364 50 | | | | | | | | | | | | | |
| | | 364 50 | | | | | | | | | | | | | |

| Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1: Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | 2: Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | 3: Cars, carriages, and vehicles of all kinds. | 4: Merchandise or stock in trade. | 5: Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | 6: Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, the same being assessed at |
|---|---|---|---|---|---|---|---|---|---|---|---|
| *Citizens' Bank of La. Continued for 1890.* | | | | | | | | | | | |
| Carey, R. | | | | | | | | | | | 25 |
| Chassaniol, E. | | | | | | | | | | | 3 |
| Cammack, R. C | | | | | | | | | | | 20 |
| Davey, John C. | | | | | | | | | | | 17⅔ |
| Day, Jas. I. | | | | | | | | | | | 27 |
| Delbondio, E. F. | | | | | | | | | | | 13 |
| Donovan, Mrs. J. | | | | | | | | | | | 13 |
| Duclaux, E. F. | | | | | | | | | | | 2 |
| Desmarais, P. | | | | | | | | | | | 20 |
| Delvaille & Son | | | | | | | | | | | 42 |
| Domecq, Mrs. A. | | | | | | | | | | | 9 |
| Edmunds, E. | | | | | | | | | | | 16 |
| Egli, John | | | | | | | | | | | 60 |
| Frederic, H. A. | | | | | | | | | | | 25 |
| Frank, Emnl. | | | | | | | | | | | 12⅓ |
| Foley, T. | | | | | | | | | | | 34 |
| Faget, Frank. | | | | | | | | | | | 30 |
| Fornaris, S. V | | | | | | | | | | | 25 |
| Gauche, E. | | | | | | | | | | | 40 |
| Green, Geo. W | | | | | | | | | | | 21 |
| Gunther, F. J. D. | | | | | | | | | | | 7 |
| Germania Nat'l bank. | | | | | | | | | | | 4 |
| Gilmore, J. C. | | | | | | | | | | | 4 |
| Gumbel, S. | | | | | | | | | | | 24 |
| Hanan, Mrs. S. R. | | | | | | | | | | | 7 |
| Harrell, A. J. | | | | | | | | | | | 17 |
| Harper, Mrs. H. S | | | | | | | | | | | 11 |
| Hassinger, Jacob. | | | | | | | | | | | 30 |
| Hanlon, M | | | | | | | | | | | 21 |
| Henderson, Misses | | | | | | | | | | | 3⅓ |
| Hirsch, Mrs. S. | | | | | | | | | | | 17 |
| Hayem, A. | | | | | | | | | | | 3⅓ |
| Hayward, S. | | | | | | | | | | | 34 |
| Hellwege, P., & Co | | | | | | | | | | | 30 |
| Hermann, L. | | | | | | | | | | | 50 |
| Ingersoll, Mrs. M | | | | | | | | | | | 4 |
| Joy, P. M | | | | | | | | | | | 3⅓ |
| James, Mrs. L. G | | | | | | | | | | | 17 |
| Johnson, B. | | | | | | | | | | | 10 |
| Kohn, Est. J. | | | | | | | | | | | 3⅓ |
| Klocke, Mrs. E. O. | | | | | | | | | | | 1 |

| | | |

| Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1 | 2 | 3 | 4 | 5 | 6 | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | Cars, carriages, and vehicles of all kinds. | Merchandise or stock in trade. | Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. |
| Sq. No. 172 | | Camp, St. Charles, Gravier, and Commercial place. | | | | | | | | | |
| *List of Shareholders of Citizens' Bank of La. for* | | | 1890. | | | | | | | | |
| Aldige, Jules | | | | | | | | | | | 12 |
| Adams, Jno. I | | | | | | | | | | | 12 |
| Anderson, Mrs. E. C | | | | | | | | | | | 1 |
| Abascal, M | | | | | | | | | | | 34⅓ |
| Avegno, J. N | | | | | | | | | | | 27 |
| Asher, A | | | | | | | | | | | 4 |
| Benson, Geo | | | | | | | | | | | 11 |
| Brandt, Geo | | | | | | | | | | | 7⅓ |
| Bagnall, Mrs. A | | | | | | | | | | | 4 |
| Beard, Max C | | | | | | | | | | | 3 |
| Burbridge, Mrs. V. N | | | | | | | | | | | 34⅓ |
| Bolinger, W. H | | | | | | | | | | | 15 |
| Bornio, M., Sr | | | | | | | | | | | 17 |
| Blaffer, G. A | | | | | | | | | | | 15 |
| Beard, S. M | | | | | | | | | | | 3 |
| Bradley, John | | | | | | | | | | | 1⅓ |
| Bornio, M., Jr | | | | | | | | | | | 4 |
| Bier, H'y | | | | | | | | | | | 129⅓ |
| Boucher, H. C | | | | | | | | | | | 35 |
| Beaufort, de J. B | | | | | | | | | | | 47 |
| " " J. F | | | | | | | | | | | 24 |
| Bloch, Simon | | | | | | | | | | | 51 |
| Bradshaw, Geo. G | | | | | | | | | | | 2 |
| Bechet, A. A | | | | | | | | | | | 19 |
| Boland, Mrs. A. M | | | | | | | | | | | 2 |
| Bonis, M. F | | | | | | | | | | | 4 |
| Boada, Thos | | | | | | | | | | | 29 |
| Chaffraix, D. A | | | | | | | | | | | 235 |
| Carroll, Mrs. S. H | | | | | | | | | | | 40 |
| Clapp, Mrs. S. F | | | | | | | | | | | 29 |
| Curtius, H | | | | | | | | | | | 7⅓ |
| Cammack, Mrs. M. G | | | | | | | | | | | 20 |
| Cofield, J. C | | | | | | | | | | | 82 |
| Conner, H. W | | | | | | | | | | | 1⅓ |
| Cier, J. B | | | | | | | | | | | 10 |
| Cazayoux, J. B | | | | | | | | | | | 70 |

OF TAXATION.

| 7 | | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Value of each share. | Total value of shares of stock in said association. | Household goods, furniture exceeding $500 in value, including books and all movable property and chattels. | Household ornaments, such as statuary, paintings, and works of art. | Jewelry, watches, silverware or plated ware, diamonds, and all other precious stones. | Cash value of stock or interest in all steamboats, steamships, ships, and all other water craft in or out of the State. | Trackage within this parish of railroads within this State or partly within this and another State. | All machinery and appurtenances, locomotive and all other motive power. | Judgments, suits, and causes in action. | Franchises, patents, copyrights, trade-marks, privileges, and charters, all canals and other ways of communication. | Bonds of all kinds, specifying each kind and their value. | All other articles or things possessing any money value, including oyster beds planted up to 30th of November last. | Total. | State tax of 6 mills. | Levee tax of 1 mill. |
| $14 58 | 174 96 | | | | | | | | | | | | | |
| ..... | 174 96 | | | | | | | | | | | | | |
| ..... | 14 58 | | | | | | | | | | | | | |
| ..... | 505 44 | | | | | | | | | | | | | |
| ..... | 393 66 | | | | | | | | | | | | | |
| ..... | 58 32 | | | | | | | | | | | | | |
| ..... | 160 38 | | | | | | | | | | | | | |
| ..... | 106 92 | | | | | | | | | | | | | |
| ..... | 58 32 | | | | | | | | | | | | | |
| ..... | 43 74 | | | | | | | | | | | | | |
| ..... | 505 44 | | | | | | | | | | | | | |
| ..... | 218 70 | | | | | | | | | | | | | |
| ..... | 247 86 | | | | | | | | | | | | | |
| ..... | 218 70 | | | | | | | | | | | | | |
| ..... | 43 74 | | | | | | | | | | | | | |
| ..... | 24 30 | | | | | | | | | | | | | |
| ..... | 58 32 | | | | | | | | | | | | | |
| ..... | 1,885 68 | | | | | | | | | | | | | |
| ..... | 510 30 | | | | | | | | | | | | | |
| ..... | 685 26 | | | | | | | | | | | | | |
| ..... | 349 92 | | | | | | | | | | | | | |
| ..... | 743 58 | | | | | | | | | | | | | |
| ..... | 29 16 | | | | | | | | | | | | | |
| ..... | 277 02 | | | | | | | | | | | | | |
| ..... | 29 16 | | | | | | | | | | | | | |
| ..... | 58 32 | | | | | | | | | | | | | |
| ..... | 422 82 | | | | | | | | | | | | | |
| ..... | 3,426 30 | | | | | | | | | | | | | |
| ..... | 582 20 | | | | | | | | | | | | | |
| ..... | 422 82 | | | | | | | | | | | | | |
| ..... | 106 92 | | | | | | | | | | | | | |
| ..... | 291 60 | | | | | | | | | | | | | |
| ..... | 1,195 56 | | | | | | | | | | | | | |
| ..... | 19 44 | | | | | | | | | | | | | |
| ..... | 145 80 | | | | | | | | | | | | | |
| ..... | 1,020 60 | | | | | | | | | | | | | |

| Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1 | 2 | 3 | 4 | 5 | 6 | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | Cars, carriages, and vehicles of all kinds. | Merchandise or stock in trade. | Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, the same being assessed at |
| Sq. No. 172..... | ..... | Gravier, St. Charles, Camp, and Commercial place. | | | | | | | | | |
| Citizens' Bank of La..... | ..... | Gravier..... | 13, 14 | 43 5.7 { 118 4 / 90 7.8 / 100 8.7 } | 70,000 | | | | | | |
| Shareholders of Citizens' Bank of La., banking department. | ..... | 134 Gravier, office.. | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 3,80 |

M. J. C., *Att'y Gen'l;* R. L., E. A. O'S., *City Att'y.*

FOR THE PARISH OF ORLEANS, 1891—CONTINUED.

| | | | | |
|---|---|---|---|---|
| | 3,802 | in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. | 7 | |
| | $90 91 | Value of each share. | | |
| | 345,676 | Total value of shares of stock in said association. | | |
| | | Household goods, furniture exceeding $500 in value, including books and all movable property and chattels. | 8 | |
| | | Household ornaments, such as statuary, paintings, and works of art. | 9 | |
| | | Jewelry, watches, silverware or plated ware, diamonds, and all other precious stones. | 10 | |
| | | Cash value of stock or interest in all steamboats, steamships, ships, and all other water craft in or out of the State. | 11 | |
| | | Trackage within this parish of railroads within this State or partly within this and another State. | 12 | |
| | | All machinery and appurtenances, locomotive and all other motive power. | 13 | |
| | | Judgments, suits, and causes in action. | 14 | |
| | | Franchises, patents, copyrights, trade-marks, privileges, and charters, all canals and other ways of communication. | 15 | |
| | | Bonds of all kinds, specifying each kind and their value. | 16 | |
| | | All other articles or things possessing any money value, including oyster beds planted up to 30th of November last. | 17 | |
| | | Total. | | |
| | | State tax of 6 mills. | | |
| | | Levee tax of 1 mill. | | |

OF TAXATION.

OFFICE STATE BOARD OF ASSESSORS, NEW ORLEANS, *May* 3, 1894.

This is to certify that the above is a true and correct extract of the assessment record for the year of 1891 on file in this office.

(Signed) J. M. GLEASON, *Pres't.*

| Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1 | 2 | 3 | 4 | 5 | 6 | 7 | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | Cars, carriages, and vehicles of all kinds. | Merchandise or stock in trade. | Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. | Value of each share. |
| *List Shareholders Citizens' Bank of La. for* 1891. | | | | | | | | | | | | |
| Prosdame, J. G. | | | | | | | | | | | 16 | 90 91 |
| Pepin, A. | | | | | | | | | | | 10 | |
| Pfeiffer, S. | | | | | | | | | | | 20 | |
| Peters, B. F. | | | | | | | | | | | 10 | |
| Rodd Bros. & Co. | | | | | | | | | | | 7 | |
| Romain, A. G. | | | | | | | | | | | 15 | |
| Rost, E. | | | | | | | | | | | 50 | |
| Sala, P | | | | | | | | | | | 18 | |
| Sere, L. J. | | | | | | | | | | | 1 | |
| Schmidt and Zeigler. | | | | | | | | | | | 20 | |
| Sipiere, Paul. | | | | | | | | | | | 33⅓ | |
| Sinclair, Miss M. | | | | | | | | | | | 14 | |
| Steven, Miss J | | | | | | | | | | | 9 | |
| Schilling, G. T | | | | | | | | | | | 4 | |
| Senat, B | | | | | | | | | | | 15 | |
| Stern and Co., H. | | | | | | | | | | | 6⅔ | |
| Schwartz, L. | | | | | | | | | | | 10 | |
| Strouse, F. C. | | | | | | | | | | | 12 | |
| Schwartz, W. I. | | | | | | | | | | | 30 | |
| Tulane, P. | | | | | | | | | | | 22 | |
| Torre & Bro., J | | | | | | | | | | | 19 | |
| Toppino, Chas. | | | | | | | | | | | 30 | |
| Thomas, S. O. | | | | | | | | | | | 28 | |
| Trautman and Co., J. | | | | | | | | | | | 6⅔ | |
| Vatter, F. | | | | | | | | | | | 25 | |
| Vose, Mrs. F. W. | | | | | | | | | | | 16 | |
| Vix, E. F. | | | | | | | | | | | 3⅓ | |
| Villo, Jos. | | | | | | | | | | | 10 | |
| Williams, O. H. | | | | | | | | | | | 112 | |
| Wolf, Mrs. R. W | | | | | | | | | | | 14 | |
| Wogan, A. | | | | | | | | | | | 4 | |
| Walmsley, R. W. | | | | | | | | | | | 27 | |
| Whitney, Mrs. M. L. | | | | | | | | | | | 24 | |
| Weissenbach, X. | | | | | | | | | | | 25 | |
| Xiques, A | | | | | | | | | | | 4 | |
| | | | | | | | | | | | 3,802 | 90 91 |

OF TAXATION.

| 7 | | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Value of each share. | Total value of shares of stock in said association. | Household goods, furniture exceeding $500 in value, including books and all movable property and chattels. | Household ornaments, such as statuary, paintings, and works of art. | Jewelry, watches, silver-ware or plated ware, diamonds, and all other precious stones. | Cash value of stock or interest in all steamboats, steamships, ships, and all other water craft in or out of the State. | Trackage within this parish of railroads within this State or partly within this and another State. | All machinery and appurtenances, locomotive and all other motive power. | Judgments, suits, and causes in action. | Franchises, patents, copyrights, trade-marks, privileges, and charters, all canals and other ways of communication. | Bonds of all kinds, specifying each kind and their value. | All other articles or things possessing any money value, including oyster beds planted up to 30th of November last. | Total. | State tax of 6 mills. | Levee tax of 1 mill. |
| 90 91 | 1,448 56 | | | | | | | | | | | | | |
| ..... | 909 10 | | | | | | | | | | | | | |
| ..... | 1,818 20 | | | | | | | | | | | | | |
| ..... | 909 10 | | | | | | | | | | | | | |
| ..... | 1,636 37 | | | | | | | | | | | | | |
| ..... | 1,363 65 | | | | | | | | | | | | | |
| ..... | 4,545 50 | | | | | | | | | | | | | |
| ..... | 1,636 38 | | | | | | | | | | | | | |
| ..... | 90 91 | | | | | | | | | | | | | |
| ..... | 1,818 20 | | | | | | | | | | | | | |
| ..... | 3,030 33 | | | | | | | | | | | | | |
| ..... | 1,272 74 | | | | | | | | | | | | | |
| ..... | 818 19 | | | | | | | | | | | | | |
| ..... | 363 64 | | | | | | | | | | | | | |
| ..... | 1,363 65 | | | | | | | | | | | | | |
| ..... | 606 06 | | | | | | | | | | | | | |
| ..... | 909 10 | | | | | | | | | | | | | |
| ..... | 1,090 92 | | | | | | | | | | | | | |
| ..... | 2,727 30 | | | | | | | | | | | | | |
| ..... | 2,000 02 | | | | | | | | | | | | | |
| ..... | 1,727 29 | | | | | | | | | | | | | |
| ..... | 2,727 30 | | | | | | | | | | | | | |
| ..... | 2,545 48 | | | | | | | | | | | | | |
| ..... | 606 06 | | | | | | | | | | | | | |
| ..... | 2,272 75 | | | | | | | | | | | | | |
| ..... | 1,448 56 | | | | | | | | | | | | | |
| ..... | 303 03 | | | | | | | | | | | | | |
| ..... | 909 10 | | | | | | | | | | | | | |
| ..... | 10,181 92 | | | | | | | | | | | | | |
| ..... | 1,272 74 | | | | | | | | | | | | | |
| ..... | 363 64 | | | | | | | | | | | | | |
| ..... | 2,454 33 | | | | | | | | | | | | | |
| ..... | 2,181 84 | | | | | | | | | | | | | |
| ..... | 2,272 75 | | | | | | | | | | | | | |
| ..... | 363 64 | | | | | | | | | | | | | |
| 90 91 | $345,676 | | | | | | | | | | | | | |

| Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1 | 2 | 3 | 4 | 5 | 6 | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | Cars, carriages, and vehicles of all kinds. | Merchandise or stock in trade. | Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. |
| *List Shareholders Citizens' Bank of La. for 1891.* | | | | | | | | | | | |
| Knoop, H. | | | | | | | | | | | 14 |
| Klumpp, H. F. | | | | | | | | | | | 26 |
| Lelong, A. A. | | | | | | | | | | | 100⅓ |
| Lewis, Dr. Jno. H. | | | | | | | | | | | 29 |
| Lipscomb, W. C. | | | | | | | | | | | 5 |
| Layster, Mrs. S. A. | | | | | | | | | | | 5 |
| Lewis, Est. A. S. | | | | | | | | | | | 11 |
| Languilles, Mrs. J. F | | | | | | | | | | | 5⅔ |
| Lloyd, Mrs. M. A | | | | | | | | | | | 13 |
| Lanata, A. | | | | | | | | | | | 9 |
| Lewis, Dr. G. W. | | | | | | | | | | | 5 |
| Lapeyre, A. | | | | | | | | | | | 7⅓ |
| Lewis, S. F. | | | | | | | | | | | 7 |
| Lee, Hillard | | | | | | | | | | | 13⅓ |
| Lee, F. A., and Co | | | | | | | | | | | 3 |
| Le Blanc, A. | | | | | | | | | | | 9 |
| Laroussini, H | | | | | | | | | | | 28 |
| Lesassier, G. | | | | | | | | | | | 139 |
| Lunch, Mrs. M | | | | | | | | | | | 10 |
| Levy, Mayer | | | | | | | | | | | 20 |
| McLellan, A. | | | | | | | | | | | 35 |
| Milliken, R. | | | | | | | | | | | 50 |
| Miltenberger, C. W., ag't | | | | | | | | | | | 4⅓ |
| Manson, G. H. | | | | | | | | | | | 19⅔ |
| Masson, E. T. | | | | | | | | | | | 7 |
| Morgan's La. & T. R. R. & S. S. Co. | | | | | | | | | | | 119 |
| Munchow, E. | | | | | | | | | | | 4 |
| Mulvihill, Mrs. J. | | | | | | | | | | | 3 |
| Merith, Ed. J. | | | | | | | | | | | 15 |
| Martinez, W. J. | | | | | | | | | | | 33⅓ |
| Marx, A | | | | | | | | | | | 5 |
| Meyer, C. J. | | | | | | | | | | | 25 |
| Marx, Simon E. | | | | | | | | | | | 50 |
| Menge, J. H. | | | | | | | | | | | 40 |
| Meletta, H. | | | | | | | | | | | 32 |
| Newgass, B. | | | | | | | | | | | 317 |
| Nott, Geo. W. | | | | | | | | | | | 20⅔ |
| O'Connor, J. H. | | | | | | | | | | | 23 |
| Popp, J. F. | | | | | | | | | | | 18 |
| Pipes, Mrs. A. M. | | | | | | | | | | | 17 |
| Peret, P. | | | | | | | | | | | 20 |

OF TAXATION.

| the domicile of the bank or banking association. | 7 | Value of each share. | Total value of shares of stock in said association. | Household goods, furniture exceeding $500 in value, including books and all movable property and chattels. | 8 | Household ornaments, such as statuary, paintings, and works of art. | 9 | Jewelry, watches, silverware or plated ware, diamonds, and all other precious stones. | 10 | Cash value of stock or interest in all steamboats, steamships, ships, and all other water craft in or out of the State. | 11 | Trackage within this parish of railroads within this State or partly within this and another State. | 12 | All machinery and appurtenances, locomotive and all other motive power. | 13 | Judgments, suits, and causes in action. | 14 | Franchises, patents, copyrights, trade-marks, privileges, and charters, all canals and other ways of communication. | 15 | Bonds of all kinds, specifying each kind and their value. | 16 | All other articles or things possessing any money value, including oyster beds planted up to 30th of November last. | 17 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 90 91 | 1,272 74 | | | | | | | | | | | | | | | | | | | | |
| | | | 2,363 66 | | | | | | | | | | | | | | | | | | | | |
| | | | 9,121 30 | | | | | | | | | | | | | | | | | | | | |
| | | | 2,636 39 | | | | | | | | | | | | | | | | | | | | |
| | | | 454 55 | | | | | | | | | | | | | | | | | | | | |
| | | | 1,000 01 | | | | | | | | | | | | | | | | | | | | |
| | | | 515 15 | | | | | | | | | | | | | | | | | | | | |
| | | | 1,181 83 | | | | | | | | | | | | | | | | | | | | |
| | | | 818 19 | | | | | | | | | | | | | | | | | | | | |
| | | | 454 55 | | | | | | | | | | | | | | | | | | | | |
| | | | 666 67 | | | | | | | | | | | | | | | | | | | | |
| | | | 636 37 | | | | | | | | | | | | | | | | | | | | |
| | | | 1,213 13 | | | | | | | | | | | | | | | | | | | | |
| | | | 272 73 | | | | | | | | | | | | | | | | | | | | |
| | | | 818 19 | | | | | | | | | | | | | | | | | | | | |
| | | | 2,545 48 | | | | | | | | | | | | | | | | | | | | |
| | | | 12,636 49 | | | | | | | | | | | | | | | | | | | | |
| | | | 909 10 | | | | | | | | | | | | | | | | | | | | |
| | | | 1,818 20 | | | | | | | | | | | | | | | | | | | | |
| | | | 3,181 85 | | | | | | | | | | | | | | | | | | | | |
| | | | 4,545 50 | | | | | | | | | | | | | | | | | | | | |
| | | | 393 94 | | | | | | | | | | | | | | | | | | | | |
| | | | 1,787 90 | | | | | | | | | | | | | | | | | | | | |
| | | | 636 37 | | | | | | | | | | | | | | | | | | | | |
| | | | 10,818 29 | | | | | | | | | | | | | | | | | | | | |
| | | | 363 64 | | | | | | | | | | | | | | | | | | | | |
| | | | 272 73 | | | | | | | | | | | | | | | | | | | | |
| | | | 1,363 65 | | | | | | | | | | | | | | | | | | | | |
| | | | 3,030 33 | | | | | | | | | | | | | | | | | | | | |
| | | | 454 55 | | | | | | | | | | | | | | | | | | | | |
| | | | 2,272 75 | | | | | | | | | | | | | | | | | | | | |
| | | | 4,545 50 | | | | | | | | | | | | | | | | | | | | |
| | | | 3,636 40 | | | | | | | | | | | | | | | | | | | | |
| | | | 2,909 12 | | | | | | | | | | | | | | | | | | | | |
| | | | 28,818 47 | | | | | | | | | | | | | | | | | | | | |
| | | | 2,697 | | | | | | | | | | | | | | | | | | | | |
| | | | 272 73 | | | | | | | | | | | | | | | | | | | | |
| | | | 1,363 65 | | | | | | | | | | | | | | | | | | | | |
| | | | 3,030 33 | | | | | | | | | | | | | | | | | | | | |
| | | | 454 55 | | | | | | | | | | | | | | | | | | | | |
| | | | 2,272 75 | | | | | | | | | | | | | | | | | | | | |
| | | | 4,545 50 | | | | | | | | | | | | | | | | | | | | |
| | | | 3,636 40 | | | | | | | | | | | | | | | | | | | | |
| | | | 2,909 12 | | | | | | | | | | | | | | | | | | | | |
| | | | 28,818 47 | | | | | | | | | | | | | | | | | | | | |
| | | | 2,697 | | | | | | | | | | | | | | | | | | | | |
| | | | 2,090 93 | | | | | | | | | | | | | | | | | | | | |
| | | | 1,636 38 | | | | | | | | | | | | | | | | | | | | |
| | | | 1,545 47 | | | | | | | | | | | | | | | | | | | | |
| | | | 1,818 20 | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | |
| | | |

| | Names of taxable persons. | Color of taxable persons. | Name of streets. | No. of lots. | Measurement of all lots. | Objects 1: Cash value of lands and lots of ground owned or claimed by any person or corporation, whether patented or not, including buildings and improvements of whatever kind. | 2: Horses, mares, mules, geldings, cattle, sheep, goats, hogs, and all other live animals. | 3: Cars, carriages, and vehicles of all kinds. | 4: Merchandise or stock in trade. | 5: Money loaned on interest, all credits and all bills receivable for money loaned or advanced or for goods sold, and all credits of any and every description. | 6: Money in possession, on deposit, or in hand. | Number of shares of stock in all banks or banking associations in this State, the same being assessed at the domicile of the bank or banking association. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | | | | | | | | | | | | |
| 2 | *List of Shareholders* | *Citizen's* | *Bank of La. for* | 1891. | | | | | | | | |
| 3 | | | | | | | | | | | | |
| 4 | Duclaux, E. F | | | | | | | | | | | 2 |
| 5 | Donovan, Mrs. J | | | | | | | | | | | 13 |
| 6 | Desmaries, P | | | | | | | | | | | 20 |
| 7 | Domecq, Mrs. A | | | | | | | | | | | 9 |
| 8 | Duggan, J. H | | | | | | | | | | | 25 |
| 9 | Desforges and Jung | | | | | | | | | | | 50 |
| 10 | Edmunds, E | | | | | | | | | | | 16 |
| 11 | Egli, Jno | | | | | | | | | | | 100 |
| 12 | Frederic, H. A | | | | | | | | | | | 25 |
| 13 | Frank, E | | | | | | | | | | | 12½ |
| 14 | Foley, T | | | | | | | | | | | 34 |
| 15 | Faget, F | | | | | | | | | | | 20 |
| 16 | Fornaris, S. V | | | | | | | | | | | 25 |
| 17 | Friend, J. E | | | | | | | | | | | 10 |
| 18 | Gauche, E | | | | | | | | | | | 40 |
| 19 | Gunther, F. J. D | | | | | | | | | | | 7 |
| 20 | Germania Nat'l bank | | | | | | | | | | | 4 |
| 21 | Gilmore, Jas. C | | | | | | | | | | | 4 |
| 22 | Gumbel, S | | | | | | | | | | | 4 |
| 23 | Guinault, Jas | | | | | | | | | | | 20 |
| 24 | Hanan, Mrs. S. R | | | | | | | | | | | 7 |
| 25 | Harrell, A. J | | | | | | | | | | | 17 |
| 26 | Harper, Mrs. H. S | | | | | | | | | | | 11 |
| 27 | Hassinger, J | | | | | | | | | | | 30 |
| 28 | Hanlon, M | | | | | | | | | | | 21 |
| 29 | Henderson, Misses | | | | | | | | | | | 3⅓ |
| 30 | Hirsch, Mrs. S | | | | | | | | | | | 17 |
| 31 | Hayem, A | | | | | | | | | | | 3⅓ |
| 32 | Hermann, L | | | | | | | | | | | 50 |
| 33 | Hein, Isaac | | | | | | | | | | | 10 |
| 34 | Hawkins, J | | | | | | | | | | | 24 |
| 35 | Herwig, P. F | | | | | | | | | | | 25 |
| 36 | Ingersoll, Mrs. M | | | | | | | | | | | 4 |
| 37 | Joy, P. M | | | | | | | | | | | 3⅓ |
| 38 | James, Mrs. L. G | | | | | | | | | | | 17 |
| 39 | Johnson, B | | | | | | | | | | | 10 |
| 40 | Kohn, Est. J | | | | | | | | | | | 3⅓ |
| 41 | Klocke, Mrs. E. A | | | | | | | | | | | 1 |
| 42 | King, B. M | | | | | | | | | | | 25 |
| 43 | Klein, Jno. & Co | | | | | | | | | | | 20 |
| 44 | | | | | | | | | | | | |

OF TAXATION.

| | the domicile of the bank or banking association. | 7 | Value of each share. | Total value of shares of stock in said association. | 8 | Household goods, furniture exceeding $500 in value, including books and all movable property and chattels. | 9 | Household ornaments, such as statuary, paintings, and works of art. | 10 | Jewelry, watches, silverware or plated ware, diamonds, and all other precious stones. | 11 | Cash value of stock or interest in all steamboats, steamships, ships, and all other water craft in or out of the State. | 12 | Trackage within this parish of railroads within this State or partly within this and another State. | 13 | All machinery and appurtenances, locomotive and all other motive power. | 14 | Judgments, suits, and causes in action. | 15 | Franchises, patents, copyrights, trade-marks, privileges, and charters, all canals and other ways of communication. | 16 | Bonds of all kinds, specifying each kind and their value. | 17 | All other articles or things possessing any money value, including oyster beds planted up to 30th of November last. | | Total. | | State tax of 6 mills. | | Levee tax of 1 mill. | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | 90 91 | 181 82 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 1,181 82 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 1,818 20 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 818 19 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 2,272 75 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 4,545 50 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 1,454 56 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 9,091 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 2,272 75 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 1,121 22 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 3,090 94 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 1,818 20 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 2,272 75 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 909 10 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 3,636 40 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 636 37 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 363 64 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 363 64 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 363 64 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 1,818 20 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 636 37 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 1,545 47 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 1,000 01 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 2,727 30 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 1,909 11 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 363 03 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 1,545 47 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 363 03 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 4,545 50 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 909 10 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 2,181 84 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 2,272 75 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 363 64 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 363 03 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 1,545 47 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 909 10 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 363 03 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 90 91 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 2,272 75 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | 1,818 20 | | | | | | | | | | | | | | | | | | | | | | | | | | |

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44